In the Matter of:  

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In removal proceedings  

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File No.: A __________

INDEX TO DOCUMENTATION OF COUNTRY CONDITIONS REGARDING PERSECUTION OF LGB (LESBIAN, GAY, BISEXUAL) INDIVIDUALS IN MEXICO

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<td><strong>GOVERNMENTAL SOURCES</strong></td>
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<td>• “Significant human rights issues included reports of…. violence targeting persons with disabilities and lesbian, gay, bisexual, transgender, and intersex persons…. Impunity for human rights abuses remained a problem, with extremely low rates of prosecution for all crimes. The government’s federal statistics agency (INEGI) estimated 94 percent of crimes were either unreported or not investigated.” (p. 1)</td>
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<td>• “According to the OHCHR, in the first eight months of the year, there were 16 hate crime homicides in Veracruz, committed against nine transgender women and seven gay men.” (p. 27)</td>
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<td>• “Civil society groups claimed police routinely subjected LGBTI persons to mistreatment while in custody.” (p. 27)</td>
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<td>• “The constitution and the law prohibit discrimination with respect to employment or occupation….The government did not effectively enforce the law or regulations. […]</td>
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Discrimination in employment or occupation occurred against women, indigenous groups, persons with disabilities, LGBTI individuals, and migrant workers.” (p. 32-3)


- “In its annual report on extreme violence against sexual minorities, the organization Letra S, AIDS, Culture and Daily Life (Letra S, Sida, Cultura, y Vida Cotidiana, AC, Letra S) indicates that more LGBT individuals were killed in 2017 and 2018 than in previous years (2013-2016), for reasons believed to be due to their real or perceived sexual or gender identity (Letra S May 2019, 21).” (p. 10)
- “According to a report on discrimination of LGBTI people regarding access to justice and security by the CEAV and Fundación Arcoiris, 31 percent of transgender women respondents and 15 percent of homosexuals said they had been detained because of their LGBTI status (Mexico and Fundación Arcoiris Nov. 2018b, 33). […] According to the CEDH, [translation] "vague terminology" in laws such as “abnormal sexual life” makes LGBT people vulnerable to the interpretation by local authorities (Nuevo León Aug. 2018, 67-68).” (p. 10-11)
- “The report on discrimination against LGBTI people regarding access to justice and security notes that [translation] “the high percentage of people who don’t report the aggressions or crimes is alarming,” and indicates that the two main reasons for not reporting are mistrust and alleged inaction of the authorities (Mexico and Fundación Arcoiris Nov. 2018b, 35).” (p.11)
- “Sources indicate that sexual minority students reported discrimination and harassment based on their gender identity or sexual orientation at school (Mexico and Fundación Arcoiris Nov. 2018a, 29; Corral July 2018, 60) and that the use of homophobic slurs in school is common (Mexico and Fundación Arcoiris Nov. 2018a, 28).… Desastre, a Mexican news website on LGBTI issues, reported a case of two lesbian students facing harassment and physical aggression at a University in Nuevo León, wherein the school responded by suspending the two victims (Desastre 28 Jan. 2019).” (p. 5)
- “According to sources, *machismo* is still embedded in Mexican culture, which increases homophobia and discrimination against sexual minorities (Mexico and Fundación Arcoiris Nov. 2018a, 27; Corral July 2018, 60).… The representative from Fundación Trans Amor indicated that while there have been changes in legislative, judicial and health matters, the social situation in Monterrey has changed "very little" and that violence and discrimination are still present in society and families (Fundación Trans Amor, AC 9 July 2019).” (p. 4)
- “Sources indicate that most sexual minorities have experienced physical acts of violence or harassment based on their sexual orientation or gender identity (Mexico and Fundación Arcoiris Nov. 2018b, 26-28; Letra S May 2019, 10). […] that 30 percent of female and 35 percent of male respondents across the country would not rent a room to a gay or lesbian
person, and that 33 percent of female and 41 percent of male respondents would not rent a room to a transgender person (Mexico 2018a, 14).” (p. 4-5)

- “In the 2018 national study on discrimination of LGBTI people in the workplace by CEAV and Fundación Arcoiris, 43 percent of respondents reported being harassed, bullied or discriminated against in the workplace, and Afro-Descendant sexual minorities reported the highest rate at 58.49 percent (Mexico and Fundación Arcoiris Nov. 2018c, 29, 38).” (p. 8)

- “The ENDOSIG survey reports that 24 percent of transgender people, 11.7 percent of lesbian women and 9.3 percent of gay men responded that they had experienced discrimination based on their gender identity or sexual orientation when accessing health care (Mexico 2018b, 22).” (p. 9)

- “According to the National Electoral Institute (Instituto Nacional Electoral, INE), sexual minorities experience prejudice, stigmatization and violence which can impact their right to vote (Mexico May 2018, 47, 49)” (p. 7)


- “Human rights issues included reports…. violence targeting lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons…. Impunity for human rights abuses remained a problem, with extremely low rates of prosecution for all forms of crimes. The government’s federal statistics agency (INEGI) estimated 94 percent of crimes were either unreported or not investigated.” (p. 1)

- “On August 5, an 18-year-old man was beaten to death allegedly by a group of 10 taxi drivers who worked at a taxi stand outside a gay bar in San Luis Potosi. Local LGBTI human right defenders claimed the killing was a hate crime because the victim was attacked due to his sexual orientation; the president of the San Luis Potosi State Commission for Human Rights agreed. Advocates also argued negligence in investigating the case due to homophobia in police ranks. As of October no one had been arrested in connection with the killing.” (p. 30)

- “A November 2017 Amnesty International report highlighted the dangers Central American LGBTI migrants faced in Mexico. Citing UNHCR data, the report stated two-thirds of LGBTI migrants from El Salvador, Guatemala, and Honduras who applied for refugee status reported having been victims of sexual violence in Mexico.” (p. 20)

- “Discrimination based on sexual orientation and gender identity was prevalent[...]. There were reports the government did not always investigate and punish those complicit in abuses, especially outside Mexico City.” (p. 30).

- “Six of 10 LGBTI prisoners were victims of abuse such as sexual violence and discrimination at the hands of other prisoners or security officials, according to a 2015 Inter-American Commission on Human Rights (IACHR) report.” (p. 9)

- “Discrimination in employment or occupation occurred against women, indigenous groups, persons with disabilities, LGBTI individuals, and migrant workers.” (p. 35)
   - “The academic stated that, in the case of women, they are subject to acts of rape as a way to [translation] "cure" them from what is considered "unnatural," and in the case of men, they are subject to sexual activities with women in order for them to "become men," while physical violence can occur in other cases (Academic 3 May 2018). According to the academic, when [translation] "correcting" their conduct is not successful, social pressure forces them to leave their communities for the cities (Academic 7 May 2018)” (p. 4)
   - “According to sources, homophobia is prevalent across Mexico (Researcher 3 May 2018; Academic 7 May 2018), including in the major cities of the country, such as Mexico City (Academic 7 May 2018). According to the academic, homophobia is translated into acts against those who are gender non-conforming, and these acts range from insults and lewd comments to physical violence and murders, including of minors (Academic 7 May 2018).” (p. 2)
   - “[A]n academic at the National Autonomous University of Mexico (Universidad Nacional Autónoma de Mexico, UNAM), who is an independent researcher and has published on sexual diversity, stated that in Mexico, [translation] "children are taught that they must adhere to characteristics and behaviours according to their biological sex" and that any deviation from this norm is "pointed out or even punished" (Academic 7 May 2018)” (p. 1)
   - “LGBT organizations have little concern for the indigenous population and their inclusion is not evident. Within the LGBT community, indigenous persons are discriminated against and segregated due to, among others, their poverty, physical traits, way of dressing, and speech manner (Academic 7 May 2018).” (p. 5)

   - “On April 18, media reported LGBTI activist Juan Jose Roldan Avila was beaten to death on April 16 in Calpulalpan, Tlaxcala. His body showed signs of torture.” (p. 31)
   - “The most significant human rights issues included…. lethal violence against members of the indigenous population and against lesbian, gay, bisexual, transgender, and intersex persons[.]. Impunity for human rights abuses remained a problem, with extremely low rates of prosecution for all forms of crimes.” (p. 1)
   - “Discrimination based on sexual orientation and gender identity was prevalent[.]. There were reports that the government did not always investigate and punish those complicit in abuses, especially outside Mexico City.” (p. 31)
   - “Discrimination in employment or occupation occurred against women, indigenous groups, persons with disabilities, LGBTI individuals, and migrant workers.” (p. 36)

6. **Research Directorate, Immigration and Refugee Board of Canada, *Mexico: Situation of Sexual Minorities, Including in Mexico City; Protection and Support Services***

- “Agencia EFE cites LGBT organizations as stating that [translation] "persistent homophobia has been promoted in large part by members of the Catholic Church" (Agencia EFE 8 Feb. 2016). In correspondence with the Research Directorate, the Director of Queer Research (Investigaciones Queer, A. C., IQ), a Mexican non-profit organization that raises awareness about the lifestyles of lesbians and homosexuals in Mexico (IQ n.d.), indicated that society in general criticizes, judges and abuses sexual minorities mainly due to [translation] "religious influence" (IQ 6 June 2017).” (p. 4)

- “Between January 2014 and December 2016, 202 sexual minorities or perceived as such, were killed as a result of their sexual orientation or gender identity or expression, including 108 trans women (transvestites, transgender or transsexual), 93 gay men and one lesbian woman. The highest number of victims, 76, was recorded in 2016. Of the total 202 victims, 33 showed signs of torture, while 15 showed signs of sexual violence. 17 cases were investigated as [translation] "hate crimes" while 20 were investigated as a [translation] "crime of passion" [3].” (p. 6)

- “According to the CEAV and Fundación Arcoiris report, there are "high levels of distrust in authorities" (Mexico and Fundación Arcoiris 11 Apr. 2016, 4). According to The Guardian, "rights for gay people are still treated as exceptions to be granted at the discretion of local officials" (The Guardian 19 Dec. 2016).” (p. 6)

INTER-GOVERNMENTAL SOURCES


- “The Committee is concerned about the discrimination and the high level of violence, including a large number of homicides, that are motivated by the victim’s sexual orientation or gender identity and regrets that consolidated data on investigations and prosecutions initiated, convictions and punishments handed down and reparations granted in such cases are not available.” (p. 3)


- “Prejudices based on sexual orientation and gender identity held by police officers and prosecutors reduce the effectiveness of investigations into attacks on such activists. The assassinations of such activists are not investigated as hate crimes, neither is the lesbian, gay, bisexual, transgender or intersex rights activism of the victims usually taken into account. Moreover, the authorities often denigrate victims in an attempt to trivialize attacks.” (p. 14)
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<td>“Defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons and sexual and reproductive rights have reported that religious groups have, at times, undermined their efforts to ensure the wider recognition of these rights…. Reports also indicate that the secular nature of the State is not fully respected because of the close relationship between certain religious groups and political/economic actors. This situation allows such groups to exert undue influence over the authorities in order to promote the adoption of decisions, including legal amendments, which can adversely affect the enjoyment of human rights.” (p. 17)</td>
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<td>“Transgender rights defenders often face increased risks due to the higher levels of sexual violence against transgender persons, sometimes resulting in their murder, as was the case with transgender activist Jennifer López in Ometepec, in the State of Guerrero.” (p. 14)</td>
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<td>“The Inter-American Commission on Human Rights observed that Mexico was affected by ‘critically high levels of impunity’ and that ‘the failure to provide access to justice has created a situation of structural impunity whose effect is to perpetuate, and in some cases foster, the repetition of gross human rights violations.’ Following country visits, at least five United Nations special procedures highlighted the prevailing climate of impunity regarding grave crimes and human rights violations in Mexico.3 In the last five years, five United Nations treaty bodies have urged Mexico to address persistent and widespread impunity.” (p. 10)</td>
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<td>“Approximately 98 per cent of crimes in Mexico remain unsolved. Given the high number of serious human rights violations, the negligible success rate of investigations and prosecutions of crimes against human rights defenders has engendered a sense of widespread and persistent impunity. The failure to investigate and sanction perpetrators sends a dangerous message that such crimes have zero consequences, creating an environment conducive to serial violations and undermining the general aspirations for human rights in Mexico.” (p. 10)</td>
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<td>“Regrettably, impunity has become both the cause and the effect of the overall insecurity of human rights defenders in Mexico. Impunity feeds the criminalization of legitimate human rights activities, which in turn fuels attacks against human rights defenders and creates fear in wider civil society. By deterring human rights defenders from filing complaints and survivors of violations from seeking their support, impunity erodes the rule of law in the country and encourages further violations.” (p. 10)</td>
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- “The Special Rapporteur noted the alarming pattern of grotesque homicides of lesbian, gay, bisexual and transgender individuals and the broad impunity for these crimes, sometimes with the suspected complicity of investigative authorities.” (p. 19)
- “Violence at the hands of State and non-State actors continues to affect lives, particularly of vulnerable persons. Protective measures for groups at risk remain insufficient and ineffective. Despite a series of legal and institutional reforms, the lack of accountability
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<td>for violations of the right to life remains a serious challenge, fostering the public perception of impunity and feeding into the cycle of violence.” (p. 19-20)</td>
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   - “Between 1995 and 2014 there were 1,218 murders in Mexico motivated by prejudice against individuals because of their real or perceived sexual orientation and/or gender identity, according to the report by the Citizens Commission Against Homophobic Hate Crimes (CCCOH) of the civil society organization Letra S, AIDS, Culture and Everyday Life AC.” (p. 122)
   - “The Commission also received alarming information regarding impunity for attacks on the lives and physical integrity of LGBTI people in Mexico. Civil society organizations reported that classifying these investigations as ‘crimes of passion’ is a frequent practice. It was also reported that although some cases go to trial, they commonly remain unresolved and no one is accused.” (p. 124)

**NON-GOVERNMENTAL SOURCES**

   - “Mexico’s justice system is plagued by delays, unpredictability, and corruption, leading to impunity.” (p. 14)
   - “[T]he country suffers from severe rule of law deficits that limit full citizen enjoyment of political rights and civil liberties. Violence perpetrated by organized criminals, corruption among government officials, human rights abuses by both state and nonstate actors, and rampant impunity are among the most visible of Mexico’s many governance challenges.” (p. 1)

   - “In the previous administration, in the six-year term of Enrique Peña Nieto’s government, at least 473 LGBT persons were murdered in Mexico for causes related to sexual orientation or gender, and the gender identity and expression perceived from the victims. That number means that on average at least 79 LGBT persons are murdered yearly in our country, which equates to 6.5 homicides per month.” (p. 1 of translation)
   - “At least 22 of the victims would have suffered sexual violence before or after being killed, and the bodies of at least 60 of the victims appeared with “torture marks” or clear signs of extreme cruelty.” (p.1 of translation)
   - “Trans women or trans persons with feminine expression are the most exposed to suffer homicidal acts of violence, since they were the most numerous with 261 trans femicides, which represents 55% of the total; following those of gay/homosexuals, with 192 cases, 40% of the total.” (p. 1 of translation)
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<td>“Likewise, the femicides of 9 lesbian women were registered; the homicides of 5 bisexual men, or perceived as such; and the femicide of one bisexual woman, or perceived as such.” (p. 1 of translation)</td>
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<td>“Whereas the majority of gay men/homosexuals’ bodies were found in their residences with multiple wounds caused by sharp objects or asphyxiated, the bodies of trans women were found in public streets or abandoned lots with wounds caused by firearms and sharp objects. It draws attention that 6 of the lesbian women were killed with their partner or in the presence of their partner.” (p. 2 of translation)</td>
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<td>“Regarding the line of investigation followed by the attorney generals and the public prosecutors’ offices, it stands out the little relevance that is attributed to sexual orientation and gender identity in their investigations, and, when it is given, they do so in a prejudicial manner.” (p. 2 of translation)</td>
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13. **Amnesty International, 'No Safe Place': Salvadorans, Guatemalans and Hondurans Seeking Asylum in Mexico Based on Their Sexual Orientation and/or Gender Identity (Nov. 27, 2017), available at** [https://www.refworld.org/docid/5a1c28f54.html](https://www.refworld.org/docid/5a1c28f54.html).

|     | “Despite this, Carlos commented that, a short while ago, while walking along a path, he was brutally attacked by other migrants. His aggressors knew he was gay and so they insulted him for his sexual orientation. He states that he was also raped.” (p. 21) |
|     | “According to UNHCR, two-thirds of LGBTI asylum seekers and refugees coming from the Northern Triangle and interviewed in 2016 as part of a study reported suffering sexual and gender-based violence in Mexico after crossing the border at blind spots.” (p. 20) |
|     | “LGBTI people also suffer violence, both verbal and physical, from other migrants. This can be seen, for example, in insults or contemptuous words that refer to their sexual orientation and/or gender identity, or in more serious aggression.” (p. 21) |


|     | “Between 15 and 20% of the respondents claimed to have been detained for the simple fact of being LGBT, the Mexican news agency Desastre continues to report. They stated that they were subjected to different forms of aggression while in detention, for example incommunicado detention and insults. Furthermore, they were not informed about the reasons for their detention. Most of the trans and intersex respondents agreed that there are no adequate health services for them. 55% of the homosexual men stated that the staff are only rarely trained to care for LGBT people. More than 50% of the respondents that expressed their sexual orientation while attending health services were discriminated against and faced pejorative remarks. 21% of the respondents stated that they have been forced to undergo treatment related to their sexual orientation and gender identity at one point.” (p. 27) |
|     | “The Cornell Law School LGBT Clinic and the Transgender Law Center mention the difficulty of gathering data about the LGBT community in their May 2016 report: “Gathering data about the Mexican LGBT community is hampered by the fact that many
individuals are reluctant to reveal their sexual orientation or gender identity because they fear harassment, violence, assault, and other negative societal consequences that may follow from such a disclosure." (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 9)” (p. 25)

- “The Mexican news agency Desastre, which in a November 2016 article focuses on topics related to sexual diversity provides information about a study carried out by Fundación Arcoíris, a Mexican organisation that advocates the rights of LGBT people. For the study, 613 persons between 21 and 69 years in seven central federal entities of Mexico were questioned. According to the answers obtained, more than 60 percent of transgender women have been victims of violence because of their gender identity. In the area of security and justice, 62% of trans women, 51% of trans men, 35% of men, 23% of women and more than 28% of the intersex persons were victims of physical aggression due to their gender identity or sexual orientation. The perpetrators were identified as unknown (32%), police (14%), relatives (11%) and friends and partners (12%). The majority of those who asked the authorities for help (88 cases) pointed out that the latter did not act. In 33 cases the authorities blamed the LGBT persons for the incidents” (p. 26)

- “In correspondence with the Research Directorate, a representative from Queer Investigations (Investigaciones Queer, A.C.), a civil society organization that advocates for the rights of LGBT persons in Mexico (Investigaciones Queer, A.C. n.d.), indicated that despite the training provided to judicial authorities on sexual diversity, [translation] ‘there is still a lot of intimidation and threats against the LGBT population due to what they perceive as ‘faults against morals,’ which are used to extort members of the LGBT community’ (ibid. 10 July 2015).” (IRB, 18 August 2015)” (p. 20)

- “Police abuse is also reported to take place in or around places where LGBT persons socialize or its surroundings. […] According to the information presented to the Commission, police agents insulted them using homophobic and transphobic slurs: ‘faggots, we are taking you because dressing up as women is immoral.’” (IACHR, 12 November 2015, p. 93)” (p. 21)

- “Increased visibility has actually increased public misperceptions and false stereotypes about the gay and transgender communities. This has produced fears about these communities, such as that being gay or transgender is ‘contagious’ or that all transgender individuals are HIV positive.” (p. 34)


- “On 27 August 2011, 25-year-old Korina de Jesús Utrera Domínguez and her girlfriend, Denise Francisca Blanco Lovato, were at Korina’s home in Tabasco, southern Mexico, when armed marines in camouflage uniforms stormed into the house and started to beat them and yell at them. Both women were blindfolded and taken away without any arrest warrant to a Navy base. There, they were both raped and subjected to near asphyxiation and electric shocks.” (p. 4)
**TAB** SUMMARY

- “According to Korina, one of the marines tried to put his penis into Korina’s mouth and shouted ‘Come on bitch, have a try.’ When marines were forcing her to eat food off the ground, one of them yelled: ‘Enough! They are going to sue us!’ Denise was also raped by marines who placed their gloved fingers into her vagina and applied electric shocks to her genitals. Denise told Amnesty International that marines screamed at them ‘You fucking lesbians.’” (p. 4)


- “In many instances, police dismiss investigations of homophobic and transphobic murders by categorizing them as ‘crimes of passion.’ Indeed, it is estimated that almost 90% of crimes in Mexico go unreported.” (p. 15)
- “Despite the existence of these formal protections around sexual orientation, advocates maintain that these laws have not prevented discrimination and violence. LGBT individuals face many barriers in exercising their rights under the antidiscrimination statutes.” (p. 10)
- “Gathering data about the Mexican LGBT community is hampered by the fact that many individuals are reluctant to reveal their sexual orientation or gender identity because they fear harassment, violence, assault, and other negative societal consequences that may follow from such a disclosure.” (p. 9)
- “Violence and discrimination against the LGBT community remains pervasive throughout Mexico. Legal recognition of same-sex couples has increased societal awareness of the LGBT community and made LGBT people much more visible. Ironically, increased awareness of LGBT people appears to have produced significant backlash.” (p. 14)
- “A national survey found that 59% of Mexicans believe that HIV/AIDS is caused by homosexuality. These misconceptions and stigma exist even among medical providers. In fact, most hospitals view homosexuality as a risk factor for HIV and often discriminate against those who do seek treatment.” (p. 24)

**MEDIA SOURCES**


- “In Mexico there is no official registry on these crimes, so in 2019 activists created a National Observatory made up of local organizations from 10 entities that, considering only those territories, has registered at least 209 murders from 2014 to May 2020. This year, even with the confinement due to the COVID-19 pandemic, there are 25 cases, more than one a week, although it is estimated that for each report there is a number of three other cases that go unreported.” (p. 1 of translation)
- This Monday, a day after commemorating Sexual Diversity Pride Day, the Observatory's first report was presented, which also revealed that those who are most victims of these
crimes are trans women, 44.5% of the time, followed by effeminate men, 40.7% of the time.” (p. 1 of translation)

- “By type of homicide, the most common is with a firearm, 26.7% of the time, and with a knife 24.3%. For Lane, this shows that violence against LGBT+ people is very evident, that it is a type of violence with the clear intend to kill. Other registered causes are 15.7% for beatings, 12.9% for suffocation, and to a lesser extent, torture and run over by cars.” (p. 2 of translation)
- “However, it should be mentioned that among the torture mechanisms, there are stoning, skinning and the use of chemical products. Other weapons used range from screwdrivers and hammers to machetes and chainsaws; beatings occur both with fists and with other objects,” the report warns. (…) 54.7% of the victims suffered sexual assaults previously.” (p. 2 of translation)
- “Currently, only 12 states have criminalized attacks on people by their orientation or identity: Mexico City, Baja California Sur, Colima, Coahuila, Guerrero, Michoacán, Nayarit, Puebla, Querétaro, San Luis Potosí, Veracruz and Aguascalientes. While in most of the country, this element is not taken into account for investigation, and therefore many times it is not even possible to keep a record.” (p. 3 of translation)


- “Mexican authorities said on Friday they were investigating the death of a leading transgender health advocate whose body was found dumped by a motorway, reigniting fears over the safety of trans people in the country.” (p. 1)
- “Despite recent progress on LGBT+ rights, with same-sex marriage legal in more than half the country’s states, Mexico remains a dangerous and often deadly place for gay and trans people.” (p. 1)
- “Last year, 117 LGBT+ people were killed in Mexico, up almost a third compared with 2018 and the highest number since 2015, according to local advocacy group Letra S.” (p. 1)
- “Last year, the number of murder victims among the general population increased 2.5%, but the number of gay and trans victims was 27% higher than in 2018, according to Letra S.” (p. 1)


- “In 2019, 117 lesbian, gay, bi and trans people were killed in Mexico, up almost a third compared with 2018 and the highest number since 2015, according to LGBT+ advocacy group Letra S. Overall in Mexico, last year was the deadliest on record, but the increase among the gay and trans community was more severe, said Alejandro Brito, Letra S director.” (p. 1)
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<td>“Victims have been found handcuffed, stabbed repeatedly and in public places, he said. A lesbian woman was killed while out one night with her girlfriend in the city of Cuernavaca, and the bodies of several murdered trans women were found on the streets.” (p. 1)</td>
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<td>“More than half the victims were transgender women, while nearly a third were gay men. At least 441 LGBT+ people were murdered in Mexico between 2015 and 2019, the group said.” (p. 1)</td>
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<td>“Brito said the increasing visibility afforded by advances in LGBT+ issues may have contributed to the surging violence. The violence “is specifically directed at LGBT people,” he said.” (p. 1)</td>
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<td>“The data on murders was based on news reports of LGBT+ killings, but the actual number could be much higher, according to Letra S.” (p. 2)</td>
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<td>After a review of the states’ penal codes, which encompassed until its last update on January 31, 2019, it was evident that no uniform criteria exists to classify those hate crimes, which complicates its persecution and sanction. That situation leaves the victims defenseless, who are murdered due to his or her sexual preference or orientation, and gender identity.” (p. 1 of translation)</td>
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<td>“According to the report conducted nationwide, a characteristic that accompanies hate homicides towards LGBT+ persons is the extreme cruelty and torture marks that appear in the victims’ bodies. “At least 60 of the victims -of the 473 registered cases from journalistic notes in six years- appeared with “torture marks” or clear signs of extreme cruelty”, the document points out.”” (p. 2 of translation)</td>
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<td>“The litigants concurred in that the origin of impunity is in the unsuitable or inexistent classification of the felonies in the 32 penal codes of the country, which favors a scenario of impunity for victims murdered because of their sexual preference or orientation, as well as because of their gender identity.” (p. 3 of translation)</td>
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**CC News, This is Hate Murders Due to LGBTTTTIPhobia in Mexico (May 2, 2020) (with translation), available at** [https://news.culturacolectiva.com/especiales/asi-es-homicidio-odio-por-lgbtttifobia-mexico-derechos-humanos-homofobia/].

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<td>Jorge and Iván were waiting in the square until a movie started in the cinema nearby when the patrolling guards cornered them and asked them to leave. Officers asked if the couple “could not be groping” outside in case children see them, Jorge, one half of the couple, claimed in a viral Facebook video.” (p. 2)</td>
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<td>“A study by Mexican LGBT+ rights organization Letra Ese has shown that, between 2013 and 2016, at least 473 LGBT+ people have been killed in the country, and 261 of these were trans women.” (p. 7)</td>
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<td>“According to the report, the last two years have been the most violent, with a 30 per cent increase in the number of murders in relation to the average of previous year[.]” (p. 7)</td>
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**PinkNews, Queer couples stage kiss-in protest in shopping mall after security banned two gay men from holding hands (Mar. 2, 2020), available at** [https://www.pinknews.co.uk/2020/03/02/mexico-protest-kiss-in-galerias-monterrey-gay-couple-regias-del-drag/].
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- “157 of the people murdered were associated with the male sex, while 43 with the female, however, respecting gender identity, we identified that 93 were trans women, 85 were men, 11 women, 2 trans men and 2 trans people.” (p. 1 of translation)  
- “[...] Mexico adds 209 crimes, of which 14 correspond to Coahuila, six in Baja California, 37 in Chihuahua, 13 in CDMX, 22 in Guerrero, 10 in Jalisco, 28 in Michoacan, 12 in Nuevo Leon, 18 in Puebla and 49 in Veracruz.” (p. 1 of translation)  
- “The activist sustained that of the 12 crimes in Coahuila, only five have been resolved, in six the family did not want to continue with the complaint and only three family members and friends continue asking for those responsible to be located, in Saltillo, Torreon and Parras de la Fuente.” (p. 1 of translation) |
- “Of Central American LGBTQ migrants interviewed by the U.N. High Commissioner for Refugees in 2017, 88 percent were victims of sexual and gender-based violence in their countries of origin; two-thirds suffered similar attacks in Mexico.” (p. 3)  
- “In May 2018, six armed men robbed the Tijuana shelter where transgender women and other members of LGBTQ community were staying. Days later, someone barred the door shut with a mattress and lit it on fire.” (p. 5) |
- “Rights officials expressed concern Tuesday after a second state congress in Mexico passed a “conscience objection” law that would allow medical personnel to refuse to perform procedures that violate their religious or ethical convictions.” (p. 1)  
- “The governmental National Human Rights Commission has filed a Supreme Court appeal against the first law, approved in the central state of Morelos in August. [...] “Medical personnel and nurses could deny services based on health reasons, including HIV and AIDS, or based on gender or sexual preferences,” the commission warned.” (p. 1) |
- “A new study by Mexican LGBT+ rights organisation Letra Ese has shown that, between 2013 and 2016, at least 473 LGBT+ people have been killed in the country, and 261 of these were trans women.” (p. 1)  
- “[T]he study says that numbers are likely even higher due to a lack of data collection on crimes against LGBT+ people and that “due to fear of their sexual orientation being revealed, fear of suffering more violence or distrust of law enforcement, many LGBT +
people prefer not to report when they have been victims of acts of discrimination and violence.” (p. 2-3)

- “Letra Ese said in its report that police, prosecutors and judges often share the same prejudices that caused the hate crime in the first place, and that all LGBT+ people are defined by law enforcement as “homosexuals”.” (p. 3-4)
- “[P]erpetrators of hate crimes are often allowed to defend themselves using a gay or trans “panic” defence, in which the defendant claims the crime was a result of discovering the victim’s sexuality or gender identity.” (p. 4)


- “Three well-known LGBT rights activists in Mexico were killed this weekend. The bodies of Rubén Estrada, Roberto Vega and Carlos Uriel López were discovered by authorities on Sunday morning in popular tourist spot Taxco, a city between Mexico City and Chilpancingo, after they were kidnapped by a group of men from a nightclub.” (p.1)


- “On the occasion of the International Day against Homophobia, Transphobia and Biphobia, which is celebrated on May 17, the NGO [Letra S] published its annual report that found that in the past five years 381 LGBT people, or people perceived as such, were murdered, presumably because of their sexual orientation or gender identity.” (p. 1 of translation)
- “Letra S recorded 84 homicides in 2013, followed by 65 in 2014, 61 in 2015, 76 in 2016 and 95 in 2017, a substantial upturn . . . . Although the data do not appear in the report, in the first four months of the year Letra S documented at least 24 murders of LGBT people.” (p. 1 of translation)
- “Between 2013 and 2017, 158 gay men were killed (41 percent of the total), six bisexual men, three lesbian women and five men whose gender identity is unknown, with trans women (transvestites, transgender, and transsexuals) being the most affected with 209 deaths (55 percent).” (p. 1 of translation)
- “By state, Veracruz, in the east, is the one that registers higher rates with 30 cases, followed by the northern state of Chihuahua, with 28 cases, and the southeastern Quintana Roo, with 27. The State of Mexico (central), the most populated in the country, and Guerrero (southern), added 25 deaths each.” (p. 2 of translation)
- “The lesbian, gay, bisexual and transsexual population in Mexico faces stigma and discrimination and a growing intolerance on the part of officials and religious associations, reported today the National Commission of Human Rights (CNDH). On the International Day Against Homophobia, Transphobia and Biphobia, the agency condemned that in the country there is ‘increasing intolerance of members of police, health services, and religious associations, which can lead to hate crimes.’” (p. 3 of translation)
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<td>• “On the early morning of Saturday, attorney Armando Ocampo and his spouse, Sergio, were arrested by police from the municipality of Monterrey, Nuevo Leon inside the Palax restaurant, after being followed by two municipal police patrol vehicles through several streets while they were on board an Uber transport service automobile.” (p. 1 of translation)</td>
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<td>• “He [Armando] refused to be handcuffed so the policemen began to struggle with him until they ripped his shirt and pulled his pants down, dragging him out of the place, in his underpants. They both were held inside the patrol vehicle without [the vehicle] moving forward and they were not given an explanation regarding the reason for their detention.” (p. 1 of translation)</td>
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<td>• “[H]alf an hour later, they were taken to a Guidance and Complaint Center (Code) in La Alamey. There, the police said they were being detained for causing a fight. Armando denied the accusations, for which he was taken inside the center, where he was tied to a tube to be beaten, he was hurt in the face and one of his legs. Upon realizing what was happening, Sergio began to yell that they leave him alone, so they took him to another space. There they were spat on and received constant insults from those in charge of the center.” (p. 1 of translation)</td>
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<td>• “Once in the cell, Sergio saw Armando’s injuries and asked for help on Facebook and his family, who lives in the city, and who they had been visiting for personal reasons. At 9:30 in the morning, Code [Orientation and Complaint Center] had told Sergio and Armando’s lawyer, Miriam Silva, that the two men had already left, information which was false, since they were allowed to leave until 10:30 in the morning. The charge they were accused with was having provoked a fight. Upon leaving the center, Armando was given a ring, a belt and a money bill as part of his personal belongings. His cell phone, his watch and his wallet, which he had with him that day, did not appear.” (p. 1 of translation)</td>
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<td>• “A lesbian couple reported that they were physically and morally abused by police of the municipality of Zuazua because of their sexual orientation.” (p. 1 of translation)</td>
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<td>• “A male and female police officer, aboard the patrol vehicle number 02, arrived at their home in the Real de Palmas neighborhood and entered by force, ‘the policeman came in and went after me. He began to tell me that I was a machorra (dyke), that I liked that, that he was going to beat me like a man because that's what I thought I was,’ explains Norma Leticia.” (p. 1 of translation)</td>
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<td>• “Antonia Guadalupe tried to prevent the aggressions towards her partner and was beaten by the policewoman.” (p. 1 of translation)</td>
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<td>• “According to the complainants, abusing his authority, the policeman warned her that he could do whatever he wanted, even killing her.” (p. 1 of translation)</td>
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<td>“Norma Leticia was taken to the jail from Zuazua’s police department, where she states that she was not examined and was not referred to the Public Prosecutor’s office.” (p. 1 of translation)</td>
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<td>“She was locked up for more than 12 hours and was fined 300 pesos.” (p. 1 of translation)</td>
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<td>“Although the police warned them that if they reported the incident, one of them was going to wake up decapitated and the other without a breast, the victims filed a complaint with that municipality’s CODE [Guidance and Complaint Center] and with the National Human Rights Commission.” (p. 1 of translation)</td>
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<td>“The leader of the Movement for Equality in Nuevo Leon, Mario Rodríguez Plata, said that the most serious thing is the impunity with which the Zuazua police operate and affirmed that it is not the first case of abuse, but the first case that is reported.” (p. 1 of translation)</td>
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<td>“The victims assured that neither the mayor, Hernán Chapa, nor the police director, whom they only identified as Jasmin, have helped them.” (p. 2 of translation)</td>
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<td>“Isaac Luna García, student at the Autonomous University of Mexico City (UACM), was found dead in the Venustiano Carranza district, on February 17.” (p. 1 of translation)</td>
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<td>“After having gone to the gay bar Baby, located in the Zona Rosa, Isaac, age 19, was found dead in Calle Oriente 166, Colonia Moctezuma, 2a Secc.” (p. 1 of translation)</td>
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<td>“Given the context of violence against women and communities of sexual diversity and the circumstances of the event, the strongest hypothesis is that it is a hate crime,’ a statement said.” (p. 1 of translation)</td>
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<td>“The Catholic Church has great influence on conservative governments, which provokes discrimination against the LGBT community.” (p. 1 of translation)</td>
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<td>“In countries such as Brazil or Mexico, homophobic crimes are increasing every day, so much so that until last year, both nations occupied the first two places in most crimes committed against the LGBT community.” (p. 1 of translation)</td>
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<td>“Our country is not far from this terrible reality for the LGBT community, as from 2015 to 2017, 202 people were killed because of their sexual orientation. Here, too, the First Archdiocese of Mexico published several texts in which they affirmed that ‘whoever has a sexual deviation, the Church wants to help them control it, not to give themselves into it.’” (p. 1 of translation)</td>
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<td>“In Mexico, there are even clandestine places where homosexuality is attempted to be ‘cured’ through the word of God.” (p. 2 of translation)</td>
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### SUMMARY


- “Most of the people interviewed for the report said they suffered further discrimination and violence, including at the hands of public officials, in Mexico, where high levels of violence against LGBTI people in general are reported.” (p. 3)
- “According to a study by the United Nations High Commissioner for Refugees, two thirds of the LGBTI refugees from Central America they spoke to in 2016 and 2017 had suffered sexual and gender-based violence in Mexico.” (p. 4)


- “On Tuesday, November 21, gay activist Julio César Zúñiga Palacios went, like every day, to work at his beauty salon in Tlalnepantla, State of Mexico. But everything changed that day: two individuals arrived at his location and shot him eight times. Julia, as he was known among his friends, was murdered at age 46 in front of his clients.” (p. 1 of translation)
- “Julia was a prominent activist and representative of gay sports in Mexico at the worldwide level. The victim was a member of the Gay Soccer League of Azcapotzalco, part of the Didesex (Diversity, Sports, and Sexuality) league, and represented Mexico in international soccer tournaments.” (p. 1 of translation)


- “At least every 30 days, an average of 2.1 murders are perpetrated against the LGBT community in the state of Mexico, said Israfil Filos Real, president of the Association for Vulnerable Groups in the state of Mexico, who commented that the municipalities in the eastern part of the state have the highest incidence of this [type of] crime.” (p. 1 of translation)
- “As an example of these cases, one that was registered last week in Metepec, in which the presumed sexuality of a professor was the trigger for the homicide.” (p. 1 of translation)
- “Cuatitlán, monthly, records a homicide of this type, said the activist. Ecatepec, Coacalco and Toluca are also included in the list of municipalities that have registered these crimes according to the association’s information.” (p. 2 of translation)


- “During a conference presented in the capital city of Puebla, she said that the vast majority of the victims are of the male sex but, in addition, she revealed that Mexico City presents the highest incidence: ‘In the country, it is in urban areas where more cases are registered.’” (p. 1 of translation)
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<td>“Aguirre Bonifaz said that, in current Mexican society, intolerance prevails, because in many sectors they believe that because they are different they can be perverse people.” (p. 1 of translation)</td>
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<td>“And although she pointed out that they do not have the indicators broken down by states, Yussel Aguirre Bonifaz pointed out that hate crimes are increasing among activists, because they are people who send a greater message to society and because they are brought forth in the media.” (p. 1 of translation)</td>
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<td>“At least 202 murders of members of the lesbian, gay, bisexual and transgender (LGBT) community occurred between 2014 and 2016 in Mexico, a rate of nearly six homicides per month … A total of 108 trans women (transvestites, transgender individuals and transsexuals), 93 gay men and a lesbian woman were killed, the non-governmental organization Letra S said in a report based on media monitoring.” (p. 1)</td>
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<td>“Gay men are often targeted by robbers, with gangs even specializing in this type of crime. The modus operandi is for the criminal to seduce the person either in person or via Internet and then, once inside the victim's home, to steal his belongings and kill him. “It's not enough for the criminal to rob him. He kills him and does so with cruelty, with extreme brutality, as if he were punishing (the victim for) his sexual orientation,” [Letra S Executive Director] Brito said.” (p. 2)</td>
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<td>“Of the 202 LGBT murder victims, at least 33 (16 percent) showed signs of torture and 15 bore evidence of sexual violence, the report said.” (p. 2)</td>
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<td>“Only 64 possible perpetrators were identified, a third of the total number of murders.” (p. 2 of translation)</td>
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<td>“Often, LGBT murders are classified as ‘crimes of passion,’ and investigators ‘tally’ the evidence with their ‘prejudiced hypotheses’ in order to close the cases, indicated the activist.” (p. 2 of translation)</td>
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<td>“Homophobia has surged in Mexico since president Enrique Pena Nieto proposed to legalise same-sex marriage in May, a gay rights group said, reporting 26 hate-fueled murders this year. Alejandro Brito, head of the Citizen Commission against Homophobic Hate Crimes, said there was a ‘defamation campaign’ against gays.” (p. 1-2)</td>
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• “This can trigger a wave of violence and an increase in attacks against homosexuals. We think that it's important for the authorities to take care of this before a tragedy takes place,” he said yesterday. ‘Homophobia has worsened this year due to the opposition to the initiative that the president has sent to Congress,’ Brito said at a news conference.” (p. 2)

• “Currently only a handful of the country's 31 states and Mexico City allow such weddings. Brito said that at least 26 people from the LGBT community were killed so far this year, with some brutal homicides perpetrated after the president's announcement.” (p. 2)

• “On June 25, two lesbians were verbally attacked by a man for their sexual orientation while they were outside a store in the northern city of Monclova. The couple left but the man hit their car with his vehicle and shot one of the women in the neck, killing her, Brito said.” (p. 2)

• “The Mexico Equality Movement has documented two other murders of gays after Pena Nieto's announcement. One was run over and the other one was tortured.” (p. 2)


• “Thousands of opponents of same-sex marriage, including Tijuana’s new Roman Catholic archbishop, gathered for a rally in the city Saturday to protest Mexican President Enrique Peña Nieto’s proposed constitutional reform favoring the right of couples to marry regardless of gender identity or sexual orientation.” (p. 1)

• “Andrés Cruz, president of Comunidad Cultural de Tijuana LGBTI, a group that supports same-sex marriage, said the protesters ‘are creating hate, and this leads to physical aggression’ against people in the gay, lesbian, bisexual, transgender and intersex communities.” (p. 2)


• “During the 37th march for LGBTTTI (lesbian, gay, bisexual, transvestite, transsexual, transgender, and intersex) pride, the group Tu Lucha Es Nuestra Lucha (Your Struggle is our Struggle), denounced that Mexico City is not as tolerant as it seems, since it is where most hate crimes occur, mainly because of homophobia.” (p. 1 of translation)

• “Through a video, the group exhibits figures obtained from the most recent Human Rights forum held in Mexico and highlights that in the last 19 years there have been 1,280 registered homophobic hate crimes in Mexico and ranks second only to Brazil.” (p. 1 of translation)

• “Of the total number of crimes, 976 were against men, 226 against the 'trans' community, and 16 against women.” (p. 1 of translation)

• “‘Figures that, according to the activists, only represent the murders that have been reported.’” (p. 1 of translation)
### SUMMARY

- “When making a comparison between crimes by city, the capital of the country, occupies the first place in hate crimes, with 190; followed by the State of Mexico with 119; Nuevo Léon, 78; Veracruz, 72; Chihuahua 69; Jalisco 66; Michoacán 65; and Yucatán with 60.” (p. 1 of translation)

   - “In the early morning May 22, gunmen entered La Madame, a gay club in Veracruz, and processed to fire into the crowd of approximately 180 people. In total, seven people were killed and at least 12 injured in the attack. The secretary of public security said that the killing was motivated by a territorial fight over drug sales, but LGBT activists protested, saying that they were hiding the homophobic aspect of the violence.” (p. 1)
   - “Violence against the LGBT community is nothing new to Mexico, nor to Latin Americans, who made up the vast majority of victims in Orlando.” (p. 1)
   - “Numbers on victims to homophobic hate crimes are tough to collect since the sexuality of victims is often not disclosed, but activists estimate several hundred deaths for each of the continent’s bigger countries. The Organization of American States counted almost 600 in 25 member states over 15 months, recognizing underreporting.” (p. 1)

   - “Homophobia is a persistent problem in our country, affirmed Ricardo Hernandez Forcada, Director of the HIV Program for the National Human Rights Commission. He said that homophobic discrimination against lesbian, gay, bisexual, transvestite and transgender groups is provoking a new problem of insecurity in Mexico, which is exacerbated by impunity as reported cases of discrimination, including injury and even homicide go unresolved.” (p. 1 of translation)
   - “The person responsible for the HIV program at CNDH recalled that the First National Survey on Homophobic Bullying, conducted in May 2012, reveals that 81% of those surveyed suffered bullying only because of their physical appearance (in other words, the perpetrators were not sure of their sexual orientation) and 83% were assaulted for conveying their sexual orientation.” (p. 1 of translation)
   - “‘There is no indictment or sanction for those responsible for these crimes,’ he indicated. He recalled that only from 2009 to 2012 69 homicides with this motive were reported.” (p. 1 of translation)

### SUMMARY

- “Homophobia begins in schools. In Mexico, 67% of gay, bisexual, and transgender people surveyed were victims of homophobic bullying in public and private schools. The effects of the aggressions ranged from depression to suicidal thoughts.” (p. 1 of translation)

- “An example is that in Mexico 59% of the students used homophobic expressions in school, higher than the number registered in other countries such as Guatemala (57), Peru (56%), and Chile (50%), according to the comparative study, between these three countries, on bullying and homophobic manifestations in schools.” (p. 1 of translation)

- “The survey found that 67% of the LGBTI community was a victim of homophobic bullying in schools; of them, 7 out of 10 gays and transsexuals and half of lesbians were attacked in some way in school.” (p. 2 of translation)

- “The harassment in public and private schools is very similar, with 68% and 63%, respectively, according to the victims’ responses. While middle school has the highest level of incidence of bullying (56%), it is followed by elementary school, with 25%; high school, 13% and the university, considerably low, being 3%.” (p. 2 of translation)

- “Of those surveyed, 92% received ridicule and insults; 77% finger-pointing and exhibition. Six out of 10 were discriminated against for their sexual orientation, three out of 10 were beaten and 2 out of 10 were threatened and extorted.” (p. 2 of translation)

- “On the consequences of homophobic bullying, half of those surveyed were depressed, 39% did not want to go to school, 3 out of 10 lost friends, 25% had suicidal thoughts, 24 percent had poor school performance and one in 10 changed schools.” (p. 2 of translation)

- “However, the aggressions not only came from the classmates, but also from the teachers, as one of the young people surveyed mentioned: ‘During formation, the teacher divided the high school girls and boys into separate lines; and he put me in the middle of both lines. The entire class laughed at me, even the teacher.’” (p. 2 of translation)

- “The majority of the school authorities (48%) did not do anything against the aggressions, ‘it seemed normal to them;’ 24% did not realize what was happening, 14% scolded the aggressors and 3% punished those responsible.” (p. 2 of translation)

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- “José Antonio was tortured and then strangled. Alejandro was tied to a pole, then his genitals were set on fire and he was shot in the head. Carlos Gabriel was sexually abused and then beaten to death, hitting his head with a rock. All were murdered for being gay, bisexual or transgender. ‘For having sex with men.’” (p. 3 of translation)

- “Like José Antonio, Alejandro and Carlos Gabriel, more than 60 members of the lesbian, gay, bisexual, transsexual, transgender, transvestite and intersex community have been murdered, as a result of homophobia, in the state.” (p. 3 of translation)

- “Jalisco ranks fifth in number of hate crimes with 66 cases, at the national level we have one thousand 219 cases of hate crimes that are characterized by the violent way in which they were committed, that is, tortured and beaten to death,’ pointed out Eduardo Rodríguez, of the Red por la Diversidad Sexual (Network for Sexual Diversity).” (p. 3 of translation)
• “Jalisco is one of the five states nationwide with the largest number of manifestations of discrimination, exclusion, stigmatization and homophobic hate crimes.” (p. 1 of translation)

• “In addition, he stressed that discrimination prevails in a wide variety of areas, which, he added, is reflected in the results of the National Survey on Discrimination in Mexico 2010, which warns that four out of 10 people would not be willing to have gay people live in their homes and that the main problem for this population in Mexico is discrimination (52 percent), followed by lack of acceptance (26.2 percent) and criticism and ridicule (6.2 percent).” (pp. 1-2 of translation)

• “An analysis conducted by researchers from the Universidad Autónoma Metropolitana (Metropolitan Autonomous University), Xochimilco unit, and Inspira Cambio (Inspire Changes) highlights that 42 percent of trans women and 39 percent of lesbian women expressed having been discriminated against in public spaces. While seven out of 10 LGBTTTTI people have felt discriminated against in educational spaces and half of them say they have experienced, at least once, situations of bullying, harassment or discrimination at work.” (p. 2 of translation)

• “To condemn that there have been 66 assassinations caused by homophobia in the state from 2005 to date…” (p. 2 of translation)

• “The activist said that although the community of sexual diversity has gained ground in the legal recognition of their rights, the advance in social acceptance has not gone hand in hand…” (p. 2 of translation)

45. Mexico News Daily, Mexico is No. 2 for homophobic crimes: Over 1,000 homicides have been recorded over 19 years (May 18, 2015), available at http://mexiconewsdaily.com/news/mexico-no-2-for-homophobic-crimes/.

• “Figures released on the eve of the International Day Against Homophobia, marked yesterday, rank Mexico as the second worst country worldwide for homophobic crimes, after Brazil.” (p. 1)

• “In the last 19 years there have been 1,218 homicides with homophobic undertones in Mexico, although estimations are that for every reported crime there are three or four more that go unreported, says the Citizens’ Commission Against Homophobic Hate Crimes in its latest report.” (p. 1)

• “According to the document, the largest group of victims are men, with 976 murders, followed by those identified as transgender with 226 reported cases.” (p. 1)

• “But as with much crime in Mexico, impunity and other issues are a factor. These crimes are at risk of being made invisible by the “violence, impunity, and corruption” with which they are investigated, the report continues.” (p. 1-2)
[FIRM]

Pro Bono Counsel for Respondent

By: _________________________

[NAME]
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Tab. 1.
EXECUTIVE SUMMARY

Mexico is a multiparty federal republic with an elected president and bicameral legislature. Andres Manuel Lopez Obrador of the National Regeneration Movement won the presidential election in July 2018 in generally free and fair multiparty elections and took office in December 2018. Citizens also elected members of the Senate and the Chamber of Deputies, governors, state legislators, and mayors.

The National Guard and federal, state, and municipal police are responsible for enforcing the law and maintaining order. The National Guard, created in March, is a civilian institution reporting to the Secretariat of Public Security and Civil Protection. The Federal Police are scheduled to be subsumed into the National Guard by 2020, but in the interim remain under the Public Security Secretariat and National Security Commission. The bulk of National Guard personnel consist of seconded army and navy elements that have an option to return to their services after five years. State preventive police report to state governors, while municipal police report to mayors. The Secretariat of National Defense and Secretariat of the Navy also play a role in domestic security, particularly in combating organized criminal groups. The constitution grants the president the authority to use the armed forces for the protection of internal and national security, and the courts upheld the legality of the armed forces’ role in undertaking these activities in support of civilian authorities. The National Migration Institute, under the authority of the Interior Secretariat, is responsible for enforcing migration laws and protecting migrants. Although authorities generally maintained effective control over the security forces, there were instances in which elements of security forces acted independently of civilian control.

Significant human rights issues included reports of the involvement by police, military, and other government officials and illegal armed groups in unlawful or arbitrary killings, forced disappearance, and torture; harsh and life-threatening prison conditions in some prisons; impunity for violence against human rights defenders and journalists; violence targeting persons with disabilities and lesbian, gay, bisexual, transgender, and intersex persons.

Impunity for human rights abuses remained a problem, with extremely low rates of prosecution for all crimes. The government’s federal statistics agency (INEGI) estimated 94 percent of crimes were either unreported or not investigated.
Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were several reports government entities or their agents committed arbitrary or unlawful killings, often with impunity. Organized criminal groups were implicated in numerous killings, acting with impunity and at times in league with corrupt federal, state, local, and security officials. From 2006 to 2018, the Attorney General’s Office reported 88 criminal investigations for homicide committed by a public official, resulting in the conviction of 25 persons.

In August, Genaro Vargas Ruelas was found dead while in police custody in Otkutzcab, Yucatan State. Municipal police stated he committed suicide, but family members rejected this account, claiming Genaro’s body had multiple signs of torture, including broken ribs and bruises on his back and genitalia, which did not coincide with the official autopsy report’s conclusion of suicide.

As of September authorities had not investigated or made any arrests in the January 2018 killing of three persons and arbitrary arrest of 38 persons in La Concepcion, Guerrero State. On June 7, 25 persons (members of the Ejidos and Communities Council Opposed to La Parota Dam) were released after 18 months in jail when a judge ruled there was no evidence against them. The 13 other persons had already been released.

In November 2018 a court acquitted a soldier who was charged in the 2017 killing of two men in Palmarito, Puebla State.

In August the Attorney General’s Office issued an arrest order for six federal police agents accused of murder, four of whom also were accused of attempted murder, in the 2015 killing of 16 unarmed civilians in Apatzingan, Guerrero State. On August 27, a district judge ruled there was sufficient evidence to keep the officers in pretrial detention until the conclusion of the trial.

After a series of appeals, in August 2018 the federal judicial branch upheld the substance of a federal court order originally handed down in 2017 and confirmed in May 2018. The order directed the Attorney General’s Office to reopen the investigation into the 2014 killings of 22 civilians by members of the military in Tlatlaya, Mexico State. The order specifically called for an investigation into the
role of the chain of command and the military order to “take down criminals.” The judge ruled the federal investigation thus far had not been exhaustive, adequate, or effective.

Environmental activists continued to be targets of violence, a majority of them from indigenous communities. On February 20, gunmen shot and killed Samir Flores Soberanes, an indigenous and environmental rights activist (see section 6, Indigenous People).

Criminal organizations carried out widespread killings and other illegal activities throughout the country. On November 4, nine U.S. citizens (three women and six children) were killed by gunmen while traveling by car near the city of Bavispe, Sonora State. As of December 31, authorities had arrested seven suspects for alleged involvement in the killings, including the public security director from Janos, Chihuahua State, who oversaw the local police force.

b. Disappearance

There were reports of forced disappearances by organized crime groups, sometimes with allegations of state collusion. In its data collection, the government often merged statistics on forcibly disappeared persons with missing persons not suspected of being victims of forced disappearance, making it difficult to compile accurate statistics on the extent of the problem. The National Commission of Human Rights (CNDH) registered 12 cases of alleged “forced or involuntary” disappearances through August 6.

Investigations, prosecutions, and convictions for the crime of forced disappearance were rare. According to information provided by the Attorney General’s Office, from October 1, 2013, to August 27, 2018, courts issued eight convictions and 17 acquittals for forced disappearance, and 18 sentences were in the appeals process. At the federal level, as of August the Specialized Prosecutor’s Office for Forced Disappearances was investigating 980 cases of disappeared persons, while other federal offices were investigating 1,000 additional cases, according to the human rights organization SERAPAZ. Some states made progress investigating this crime. In Veracruz State, from January to July 30, prosecutors opened 573 investigations into disappearances, although family members alleged prosecutors undercounted the actual number of disappeared persons cases.

There were credible reports of police involvement in kidnappings for ransom, and federal officials or members of the national defense forces were sometimes
accused of perpetrating this crime. In July, five Cuban migrants in Ciudad Juarez, Chihuahua State, filed a complaint with the National Human Rights Office that alleged federal police officers kidnapped them and extorted thousands of dollars from them.

Nationwide, the National Search Commission (CNB) reported the exhumation of the remains of at least 337 persons in 200 clandestine graves between December 1, 2018, and May 13. In August the CNB released a report stating 3,024 clandestine graves were located between 2006 and September 2019, with 4,974 bodies exhumed. The same report noted 200 bodies had been identified, with 116 of those returned to families. The CNB also reported that between February 13 and May 28, it received 481 reports of missing persons and located 15 alive and five deceased. On December 5, the government formally created an Extraordinary Mechanism for Forensic Identification to bring together national and international forensics experts to help identify 37,000 unidentified remains held in government facilities.

The federal government and several states failed to meet deadlines for implementing various provisions of the 2017 General Law on Forced Disappearances, and efforts by the federal government were insufficient to address the problem. State-level search commissions should have been established by mid-April 2018; as of September 2019, 25 of 32 states had done so. By September a total of 26 states had met the requirement to create specialized prosecutors’ offices focused on forced disappearances. Only four states (Coahuila, Nuevo Leon, Veracruz, and Zacatecas) had established citizen councils as required by the law. The federal government created a National System for the Search of Missing Persons as required by the law but as of August had not established the required National Forensic Data Bank.

As of April 30, 2018, a total of 37,435 individuals were recorded as missing or disappeared, according to the National Registry of Missing Persons, up 40 percent compared with the total number at the end of 2014. The CNB shut down this registry in July 2018 as part of the process to create a new registry, which it planned to release publicly in early 2019, but it was still not operational as of September. The new database was to include more than 24,000 profiles of the relatives of the disappeared as well as information such as fingerprints, parents’ names, and dates of birth of the missing persons, according to government officials.
According to media reports, the Veracruz state officials arrested in 2018 on suspicion of involvement in forced disappearances in previous years were released in August due to lack of evidence. The persons released included former state police chief Roberto Gonzalez Meza, former state attorney general Luis Angel Bravo Contreras, and more than 50 other former high-ranking Veracruz state security officials and members of the state police. Media outlets speculated the charges were politically motivated by then governor Miguel Angel Yunes, who was under investigation by the state attorney general for ordering the murder of former mayor Maricela Vallejo Orea on April 24.

As of September no charges had been filed regarding the 2018 disappearance of 23 persons in Nuevo Laredo, Tamaulipas, and none of the missing individuals had been located.

Investigations continued into the disappearance of 43 students from a teacher-training college in Ayotzinapa in Iguala, Guerrero, in 2014. Victims’ relatives and civil society continued to be highly critical of the handling by the Attorney General’s Office of the original investigation, noting there had been no convictions related to the disappearances of the 43 students. The court ruled that the investigation had not been prompt, effective, independent, or impartial and ordered the government to create a special investigative commission composed of representatives of the victims, Attorney General’s Office, and the CNDH. The government appealed the ruling, claiming it infringed upon the principle of separation of powers. An intermediate court upheld the appeal, and the case was before the Supreme Court for review.

On December 3, 2018, two days after his inauguration, President Andres Manuel Lopez Obrador ordered the creation of a truth commission—headed by the Interior Secretariat’s undersecretary for human rights—to re-examine the disappearances of the 43 students. The Presidential Commission for Truth and Justice in the Ayotzinapa Case was formally inaugurated in January. The commission included senior officials from the Secretariat of the Interior, Secretariat of Foreign Affairs, Secretariat of Finance, and victims and the civil society organizations that legally represent them. In March the Inter-American Commission on Human Rights (IACHR) reached an agreement with the presidential commission to form a special follow-up mechanism for the case to continue monitoring progress. On April 8, the Foreign Affairs Secretariat also signed an agreement with the UN Office of the High Commissioner for Human Rights (OHCHR) to provide technical assistance to the commission.
In other developments related to the Ayotzinapa case, in June an anonymous video was released allegedly showing military and police officers torturing a detainee, Carlos Canto Salgado. The video contradicted findings from two separate investigations by the CNDH and the Attorney General’s Office that determined no evidence of torture existed in Canto’s case. As of September none of the individuals in the video—including Carlos Gomez Arrieta, then head of the Federal Investigative Police; Ezequiel Pena Cerda, a federal police officer; or Ariel Castillo Reyes, from the Secretariat of the Navy (SEMAR)—had been charged.

In June the Attorney General’s Office created the Special Unit for the Investigation and Litigation of the Ayotzinapa Case, in compliance with a May 2018 federal court ruling that called for the government to rectify irregularities in the Attorney General’s Office’s original investigation of the case. Omar Gomez Trejo, an experienced lawyer and human rights expert, was appointed as head of the new unit.

On August 30, a judge dismissed charges against Gildardo Lopez Astudillo for his alleged role in the Ayotzinapa case after finding the evidence collected against him was obtained through torture and arbitrary detention. He was one of the main suspects in the case, according to prosecutors at the time, and the government claimed he confessed to his involvement after his initial detention. As of September none of the alleged perpetrators of the disappearances had been convicted, and the majority of those initially accused had been released from detention on the grounds their confessions were obtained through torture.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Federal law prohibits torture and other cruel, inhuman, or degrading treatment or punishment, as well as the admission of confessions obtained through illicit means as evidence in court. Despite these prohibitions, there were reports of security forces torturing suspects.

As of June the CNDH registered 20 complaints of torture. The majority of these complaints were from the states of Tamaulipas, Mexico, and Veracruz, and also Mexico City; federal police and Attorney General’s Office officials were accused as the responsible parties in most torture cases. As of March only 15 of 32 states had specialized prosecutor’s offices for torture as called for by law.
As of January the Attorney General’s Office was investigating 4,296 torture-related inquiries under the previous inquisitorial legal system (initiated prior to the 2016 transition to an accusatorial system) and 645 investigations under the accusatorial system. Federal courts handed down 45 convictions between 2013 and 2018.

On July 31, authorities arrested six police officers from the Coahuila prosecutor general’s office and detained one on homicide charges, after they participated in an operation resulting in the death of a Honduran migrant. Initial police reports indicated the migrant shot at officers conducting a counternarcotics raid, but Coahuila prosecutor general Gerardo Marquez stated on August 8 that no shots were fired by the migrant.

In September 2018 the CNDH called upon federal authorities to investigate the alleged illegal detention and torture of 17 persons between 2013 and 2017 by SEMAR marines. The CNDH stated 17 federal investigators ignored or delayed acting on reports made by the victims. The CNDH detailed sexual assaults, beatings, electric shocks, and suffocation committed by marines against their captives before turning them over to federal law enforcement. The detentions and torture allegedly occurred in the states of Coahuila, Nuevo Leon, Sinaloa, Veracruz, and Zacatecas.

In January the CNDH issued a report on torture and other forms of mistreatment committed against 19 persons in the state of Aguascalientes between 2011 and 2013 by the state prosecutor’s office. Investigative police, prosecutors, public attorneys, and forensic personnel from the state prosecutor’s office allegedly colluded in committing and hiding torture during that period. The then state prosecutor (who also served as deputy prosecutor at the Attorney General’s Office) was alleged to have been directly involved. After the report was published, the former prosecutor filed an injunction, and the CNDH was forced to remove the report from its website pending resolution of the case.

As of October no charges had been filed in the 29 cases of sexual torture between 2006 and 2015 in 12 states. Twenty-seven women reported their torture to a judge, but no investigation was ordered in 18 of the cases. Members of the Secretariat of National Defense, SEMAR, federal police, and state police of Tamaulipas, Veracruz, and Coahuila were allegedly involved.

On April 26, the UN Committee against Torture released the findings of the seventh periodic report of Mexico on measures taken to implement the provisions
of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The report highlighted that one of the main challenges for the government was developing indicators and producing comprehensive, reliable statistics on the number of investigations, prosecutions, and convictions related to cases of torture and mistreatment.

**Prison and Detention Center Conditions**

Conditions in prisons and detention centers were often harsh and life threatening.

**Physical Conditions:** According to the Federal Prison System, as of March there were 198,475 inmates in 305 state, federal, and municipal facilities with a designed capacity of 215,083.

After visiting more than half of the country’s prisons in 2018, the CNDH reported that 45 percent of the state prisons visited had operational command problems, with inmates controlling or running various aspects of the prison. According to the report, state prisons were understaffed, and pretrial detainees were held with convicted criminals. The prisons also suffered from poor sanitary conditions and a general lack of opportunities for social reintegration. The report singled out Baja California Sur, Nayarit, and Tamaulipas as the states with the worst prison conditions. Regarding federal prisons, the CNDH noted significant understaffing at all levels, which affected access to programs, activities, and medical services and promoted segregation of inmates.

In its 2017 National Diagnostic of Penitentiary Supervision, the CNDH reported several incidents of sexual abuse of inmates in the state of Mexico’s Netzahualcoyotl Bordo de Xochiaca Detention Center. Cases of sexual exploitation of inmates were also reported in Mexico City and the states of Chihuahua, Guerrero, Nayarit, Oaxaca, Puebla, Quintana Roo, Sinaloa, Sonora, Tamaulipas, and Veracruz. The report highlighted overcrowding, self-governance, and a lack of personnel, protection, hygienic conditions, and actions to prevent violent incidents. The report faulted prisons for failing to separate prisoners who had yet to be sentenced from convicts.

Organized criminal groups reportedly continued to oversee illicit activities from within penitentiary walls. In November, following a joint federal-state-municipal inspection of Ciudad Juarez’s CERESO III prison in search of weapons, drugs, cell phones, and other contraband, incarcerated members of a criminal organization at
the prison reportedly ordered gang members in Ciudad Juarez to attack state authorities and installations, as well as commercial vehicles around the city.

According to civil society groups, migrants at some detention centers faced abuse when comingled with MS-13 gang members. In addition they reported some migration officials discouraged persons from applying for asylum, claiming their applications were unlikely to be approved, and that some officials from the National Institute of Migration kidnapped asylum seekers for ransom.

**Administration:** Authorities did not always conduct investigations into credible allegations of mistreatment.

**Independent Monitoring:** The government permitted independent monitoring of prison conditions by the International Committee of the Red Cross, CNDH, and state human rights commissions.

**Improvements:** Federal and state facilities continued to seek or maintain international accreditation from the American Correctional Association. As of August the total number of state and federal accredited facilities was 98, an increase of six from the previous year. Guanajuato was the only state to have all its prisons accredited.

A CNDH report showed a decrease in the number of prison homicides, fights, and riots, compared with its 2018 report. The drop was credited to an increase in the training providing to prison staff.

**d. Arbitrary Arrest or Detention**

Federal law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, but the government sometimes failed to observe these requirements. Between January 2017 and August 2018, the CNDH recorded 618 complaints of arbitrary detention.

**Arrest Procedures and Treatment of Detainees**

The constitution allows any person to arrest another if the crime is committed in his or her presence. A warrant for arrest is not required if an official has direct evidence regarding a person’s involvement in a crime, such as having witnessed the commission of a crime. In a 2018 report, Mexico Evalua, a domestic think tank, determined 90 percent of all arrests fell under this category. This arrest
authority, however, is applicable only in cases involving serious crimes in which there is risk of flight. Bail is available for most crimes, except for those involving organized crime and a limited number of other offenses. In most cases the law requires that detainees appear before a judge for a custody hearing within 48 hours of arrest, during which authorities must produce sufficient evidence to justify continued detention. This requirement was not followed in all cases, particularly in remote areas of the country. In cases involving organized crime, the law allows authorities to hold suspects up to 96 hours before they must seek judicial review.

The procedure known in Spanish as arraigo (a constitutionally permitted form of pretrial detention employed during the investigative phase of a criminal case before probable cause is fully established) allows, with a judge’s approval, for certain suspects to be detained prior to filing formal charges. Following the introduction of the accusatorial justice system, however, there was a significant reduction in the number of persons detained in this manner, falling from more than 1,900 in 2011 to 21 in 2018. The UN Committee against Torture noted its “concern at reports documenting allegations of acts of torture and mistreatment of persons deprived of their liberty by virtue of orders of arraigo, some of which are carried out in military installations.”

Some detainees complained of a lack of access to family members and to counsel after police held persons incommunicado for several days and made arrests arbitrarily without a warrant. Police occasionally failed to provide impoverished detainees access to counsel during arrests and investigations as provided for by law, although the right to public defense during trial was generally respected. Authorities held some detainees under house arrest.

Human rights nongovernmental organizations (NGOs) and victims alleged numerous incidents between January and August in which Coahuila state police forces abused detainees in custody in the border city of Piedras Negras and surrounding areas. As of August the state prosecutor general’s office was investigating the accusations.

**Arbitrary Arrest:** Allegations of arbitrary detentions persisted throughout the year. The IACHR, the UN Working Group on Arbitrary Detention, and NGOs expressed concerns about arbitrary detention and the potential for arbitrary detention to lead to other human rights abuses.

On August 7, according to media reports, a man was arbitrarily arrested, severely beaten, and threatened by Security and Civilian Protection officers in Mexico City.
The victim was reportedly outside his house walking his dog when police arrested him without a warrant. Two days passed before the victim was advised of drug trafficking charges against him. Four days later he was released after family members successfully gathered evidence showing he was the wrong person.

**Pretrial Detention:** Lengthy pretrial detention was a problem. The accusatorial justice system allows for a variety of pretrial measures, including electronic monitoring, travel restrictions, and house arrest, that reduced the use of the prison system overall, including the use of pretrial detention. The law provides time limits and conditions on pretrial detention, but federal authorities sometimes failed to comply with them, since caseloads far exceeded the capacity of the federal judicial system. Violations of time limits on pretrial detention were endemic in state judicial systems. The OHCHR documented cases in the states of Mexico and Chiapas where detainees had remained for more than 12 years in pretrial detention. A constitutional reform passed in February increased the number of crimes for which pretrial detention is mandatory and bail is not available, including armed robbery, electoral crimes, fuel theft, and weapons possession.

**Detainee’s Ability to Challenge Lawfulness of Detention before a Court:** Persons who are arrested or detained, whether on criminal or other grounds, may challenge their detention through a writ of habeas corpus. The defense may argue, among other things, that the accused did not receive proper due process, suffered a human rights abuse, or had his or her constitutional rights violated. By law individuals should be promptly released and compensated if their detention is found to be unlawful, but authorities did not always promptly release those unlawfully detained. In addition, under the criminal justice system, defendants apprehended during the commission of a crime may challenge the lawfulness of their detention during their court hearing.

**e. Denial of Fair Public Trial**

Although the constitution and law provide for an independent judiciary, court decisions were susceptible to improper influence by both private and public entities, particularly at the state and local level, as well as by transnational criminal organizations. Authorities sometimes failed to respect court orders, and arrest warrants were sometimes ignored. Across the criminal justice system, many actors lacked the necessary training and resources to carry out their duties fairly and consistently in line with the principle of equal justice.

**Trial Procedures**
In 2016 all civilian and military courts officially transitioned from an inquisitorial legal system based primarily upon judicial review of written documents to an accusatorial trial system reliant upon oral testimony presented in open court. In most states alternative justice centers employed mechanisms such as mediation, negotiation, and restorative justice to resolve minor offenses outside the court system.

Under the accusatorial system, judges conduct all hearings and trials and follow the principles of public access and cross-examination. Defendants have the right to a presumption of innocence and to a fair and public trial without undue delay. Defendants have the right to attend the hearings and to challenge the evidence or testimony presented. Defendants may not be compelled to testify or confess guilt. The law also provides for the rights of appeal and of bail in most categories of crimes. Defendants have the right to an attorney of their choice at all stages of criminal proceedings. By law attorneys are required to meet professional qualifications to represent a defendant. Not all public defenders were qualified, however, and often the state public defender system was understaffed. Administration of public defender services was the responsibility of either the judicial or the executive branch, depending on the jurisdiction. According to the Center for Economic Research and Teaching, most criminal suspects did not receive representation until after their first custody hearing, thus making individuals vulnerable to coercion to sign false statements prior to appearing before a judge.

Defendants have the right to free assistance of an interpreter, if needed, although interpretation and translation services into indigenous languages were not always available. Indigenous defendants who did not speak Spanish sometimes were unaware of the status of their cases and were convicted without fully understanding the documents they were instructed to sign.

The lack of federal rules of evidence caused confusion and led to disparate judicial rulings.

**Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

**Civil Judicial Procedures and Remedies**
Citizens have access to an independent judiciary in civil matters to seek civil remedies for human rights violations. For a plaintiff to secure damages against a defendant, authorities first must find the defendant guilty in a criminal case, a significant barrier due to the relatively low number of criminal convictions.

**f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such practices and requires search warrants. There were some complaints of illegal searches or illegal destruction of private property.

### Section 2. Respect for Civil Liberties, Including:

#### a. Freedom of Expression, Including for the Press

The law provides for freedom of expression, including for the press, and the government generally respected this right. Most newspapers, television stations, and radio stations were privately owned. The government had minimal presence in the ownership of news media but remained a significant source of advertising revenue for many media organizations, which at times influenced coverage. Media monopolies, especially in small markets, could constrain freedom of expression.

**Violence and Harassment:** Journalists were killed or subject to physical and cyberattacks, harassment, and intimidation (especially by state agents and transnational criminal organizations) in response to their reporting. This limited media’s ability to investigate and report, since many of the reporters who were killed covered crime, corruption, and local politics. According to the NGO Committee to Protect Journalists, as of August 31, 10 journalists had been killed because of their reporting.

Perpetrators of violence against journalists acted with impunity. According to the NGO Article 19, as of February the impunity rate for crimes against journalists was 99 percent. In 2018 there were 544 attacks against journalists, according to Article 19. Since its creation in 2010, the Office of the Special Prosecutor for Crimes Against Journalists (FEADLE), a unit in the Attorney General’s Office, secured only 10 convictions for various related crimes, and only one for murder, in the 1,077 cases it investigated. Only 16 percent of the cases FEADLE investigated were taken to court. As of September, FEADLE had not opened any new cases, reportedly in an effort to focus on bringing existing investigations to trial.
Government officials believed organized crime to be behind most of the attacks against journalists, but NGOs asserted there were instances when local government authorities participated in or condoned the acts. According to Article 19, in 2018, 42 percent of physical attacks against journalists originated with public officials. Although 75 percent of those came from state or local officials, federal officials and members of the armed forces were also suspected of being behind 7 percent of attacks against journalists.

There were no developments in the 2017 killing of Miroslava Breach, a prominent newspaper correspondent who reported on organized crime and corruption. In March, Undersecretary for Human Rights Alejandro Encinas stated the federal government was “aiding” the state prosecutor in the case, ultimately affirming it would remain with state prosecutors.

In January the UN Human Rights Committee declared the government responsible for violating journalist Lydia Cacho’s human rights, including subjecting her to acts of torture in 2005 after she exposed government corruption and a pedophile ring, and for shortcomings in the investigation. In response, on April 11, FEADLE issued arrest warrants against former Puebla governor Mario Marin Torres, Kamel Nacif, Juan Sanchez Moreno, and Hugo Adolfo Karam for their role as masterminds of the acts of torture against Cacho. As of September all four remained fugitives. In July, two assailants entered Cacho’s home, poisoned her dogs, and stole research material—including 10 hard drives containing information on pedophile rings, both the one she exposed in 2005 and a new case she was working on. Article 19 referred to the incident as “an act of reprisal for her work as a defender of free speech.”

In August, Cacho fled the country due to fear for her safety, declaring herself “in a situation of forced displacement.” Article 19 stated, “Lydia Cacho was forced to leave the country in the face of not receiving the minimal conditions of security to carry out her job and continue the process of seeking justice for her arbitrary detention and torture perpetrated in 2005.”

Between 2012 and September 2019, the National Mechanism to Protect Human Rights Defenders and Journalists received 976 requests for protection for journalists and human rights defenders. Since 2018 five journalists with protective measures from the Mechanism were killed, including two during the year. In January, Rafael Murua, under Mechanism protection, was shot and killed in Baja California Sur. Police arrested three individuals in connection with the case. In May journalist Francisco Romero was beaten, shot, and killed in Quintana Roo.
He had received threats—including from local police—after exposing corruption of local authorities. Both victims had government-issued panic buttons. After these killings, the OHCHR representative in Mexico, Jan Jarab, said the Mechanism merited a “deep reflection” and added, “These cases show that violence against human rights defenders and journalists is deeply rooted and structural changes are needed.”

Censorship or Content Restrictions: Human rights groups reported some state and local governments censored the media. Journalists reported altering their coverage due to a lack of protection from the government, attacks against members of the media and newsrooms, and threats or retributions against their families, among other reasons. There were reports of journalists practicing self-censorship due to threats from criminal groups and government officials.

In March 2018 Article 19 reported the government, despite reductions in its advertising budgets, continued to have a strong financial impact and influence on the largest media companies.

Libel/Slander Laws: There are no federal criminal laws against defamation, libel, or slander; however, eight states have criminal laws on these acts. In Baja California Sur, Guanajuato, Michoacan, Nayarit, Nuevo Leon, and Yucatan, the crime of defamation is prosecuted, with penalties ranging from three days to five years in prison and fines ranging from five to 500 days of minimum salary for committing defamation or slander, both considered “crimes against honor.” Slander is punishable under the criminal laws of the states of Campeche, Colima, Guanajuato, Hidalgo, Michoacan, Nayarit, Nuevo Leon, Sonora, Yucatan, and Zacatecas with sentences ranging from three months to six years in prison and monetary fines. Five states have laws that restrict the publishing of political caricatures or “memes.” These laws were seldom applied.

In May the Supreme Court struck down a law in the state of Nayarit penalizing slander. The court ruled the law violated freedom of expression.

Nongovernmental Impact: Organized criminal groups exercised a grave and increasing influence over media outlets and reporters, threatening individuals who published critical views of crime groups. Concerns persisted about the use of physical violence by organized criminal groups in retaliation for information posted online, which exposed journalists, bloggers, and social media users to the same level of violence faced by traditional journalists.
Internet Freedom

The government did not restrict or disrupt access to the internet or block or filter online content. Freedom House’s 2018 *Freedom on the Net* report categorized the country’s internet as partly free, noting concerns about illegal surveillance practices in the country and violence against online reporters.

According to Freedom House, the country remained very dangerous for journalists, and at least four digital reporters were killed in 2018. Digital media journalists covering sensitive stories such as crime, corruption, and human rights violations experienced physical and technical violence.

NGOs alleged provisions in secondary laws threatened the privacy of internet users by forcing telecommunication companies to retain data for two years, providing real-time geolocation data to police, and allowing authorities to obtain metadata from private communications companies without a court order. While the Supreme Court upheld the provisions, it noted the need for authorities to obtain a judicial warrant to access user metadata.

Article 19 noted that according to Google Transparency reports between 2012 and June 2018, the executive and judiciary branches filed 111 requests to remove content from the web, including two instances in which the reason cited was “criticism to government.”

According to Freedom House, “No significant advances were made to investigate” illegal surveillance that took place in 2017 via a sophisticated surveillance software program, Pegasus, presumably targeting human rights defenders, anticorruption activists, and prominent journalists.

In March the Guadalajara-based Jesuit university ITESO released a study detailing “attacks and smear campaigns aimed at journalists and media outlets who have a critical stance against the government.” The study suggested the creators of the attacks and campaigns employed a massive use of bots that created artificial trending topics on Twitter to invite users to defend President Lopez Obrador and attack his critics.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.
b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights. There were some reports of security forces using excessive force against demonstrators. Twelve states have laws that restrict public demonstrations.

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at https://www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

Federal law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

In-country Movement: There were numerous instances of armed groups limiting the movements of migrants, including by kidnappings and homicides.

e. Internally Displaced Persons

The NGO Mexican Commission for the Defense and Promotion of Human Rights identified 12 incidents of forced internal displacement through June. These episodes took place in the states of Chiapas, Chihuahua, Durango, Guerrero, Michoacan, Oaxaca, and Sinaloa. The commission attributed the displacement of 10,947 persons in 2018 to armed attacks against civilians in the states of Chiapas, Oaxaca, and Sinaloa. Of the 25 episodes in 2018, 20 were caused by violence generated by armed organized groups, such as drug cartels, affecting 6,156 persons. The remaining five episodes were caused by land conflicts, social and ethnic violence, or local political disputes, affecting 5,335 individuals. The government, in conjunction with international organizations, made efforts to promote the safe, voluntary return, resettlement, or local integration of displaced persons.

The OHCHR reported that the approximately 3,500 Tzotziles indigenous individuals who returned to their homes in the state of Chiapas did so only because the conditions at the shelter where they were staying were worse than the danger they faced upon return. During a 2017 border dispute between two municipalities, more than 5,000 Tzotziles indigenous individuals were displaced.
f. Protection of Refugees

Abuse of Migrants, Refugees, and Stateless Persons: The press and NGOs reported victimization of migrants by criminal groups and in some cases by police, immigration officers, and customs officials. In September the Migrant Organizations Network (Redodem, a group of NGOs that shelter migrants) reported that in 2018, federal, state, and municipal police, as well as military forces, committed at least 865 crimes against migrants. Redodem registered 542 robberies committed by authorities, 131 cases of abuse of authority, 83 extortions, 46 injuries, 26 acts of intimidation, eight illegal detentions, and six acts of bribery, among others. According to the report, federal police agents committed 297 incidents, followed by municipal police (266), the state police (179), migration agents (102), the army (18), and the navy (four).

Government and civil society sources reported Central American gang presence spread farther into the country and threatened migrants who had fled the same gangs in their home countries. There were media reports that criminal groups kidnapped undocumented migrants to extort money from their relatives or force them into committing criminal acts on the groups’ behalf.

The government cooperated with the Office of UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

Access to Asylum: Federal law provides for granting asylum or refugee status and complementary protection. The government has an established procedure for determining refugee status and providing protections. From January to August 10, the Mexican Commission to Assist Refugees received 42,788 petitions, a 230 percent increase over the same period in 2018.

The government worked with UNHCR to improve access to asylum and the asylum procedure, reception conditions for vulnerable migrants and asylum seekers, and integration (access to school and work) for those approved for refugee and complementary protection status.

g. Stateless Persons

Not applicable.
Section 3. Freedom to Participate in the Political Process

Federal law provides citizens the ability to choose their government through free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: International observers considered the July 2018 presidential, legislative, gubernatorial, and other local elections to be generally free and fair, with only minor reports of irregularities. Local commentators pointed to the electoral authorities’ quick and transparent publishing of results as increasing citizen trust in the electoral and democratic system as a whole.

During the electoral season (September 2017 to June 2018), 48 candidates were killed. In Guerrero, 14 candidates were killed, followed by five in Puebla. Of the victims, 12 were members of the Institutional Revolutionary Party, 10 belonged to the Party of the Democratic Revolution, seven to the National Regeneration Movement, six to the National Action Party, five to the Citizens’ Movement, two to the Ecologist Green Party of Mexico, and one each to the Social Encounter Party and the Labor Party; the remainder did not have a party affiliation. As of July the killings resulted in just one arrest. In comparison with the 2012 elections, there were 10 times more killings of 2018 candidates.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate. The law provides for the right of indigenous persons to elect representatives to local office according to “uses and customs” law (see section 6, Indigenous Peoples) rather than federal and state electoral law.

In May, Congress unanimously approved a constitutional reform on gender parity that establishes a requirement to observe parity in the designation of public officials at every level (federal, state, local) in all three branches of government. A majority of state legislatures approved the reform on June 4, and it came into force on June 7. The reform states the principle of gender parity should be observed in the designation of cabinet members, selection of candidates for public office by every political party, and designation of members of the judiciary. In accordance with the reform, the Senate elected Monica Fernandez president of the Senate for a
year during the legislative session beginning September 1. She became the fourth woman to preside over the Senate and the first since 1999.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government took steps to enforce the law more effectively. In February, Congress approved a constitutional reform expanding the catalogue of crimes subject to pretrial detention to include acts of corruption (see section 1.d., Pretrial Detention). In December 2018 Congress also approved a constitutional reform, which came into force in March, to increase the number of illicit activities for which the government can seize assets, including acts of corruption.

On August 7, the Public Administration Secretariat launched a platform within its own website where persons can report cases of corruption. The platform allows citizens to report acts of corruption, human rights violations, and harassment in cases where public officials are involved. The secretariat responds to these reports based on three principles: guarantee of confidentiality, continuous monitoring of the case, and effective sanctioning.

Although by law elected officials enjoy immunity from prosecution while holding public office, state and federal legislatures have the authority to waive an official’s immunity. Of the 32 states, 17 followed this legal procedure to strip officials of immunity.

Corruption: The Attorney General’s Office opened a corruption investigation against Emilio Lozoya, former director of Petroleos Mexicanos (PEMEX), for receiving bribes in connection to the Odebrecht case. The Attorney General’s Office also obtained an arrest warrant against Lozoya’s mother, accused of money laundering, and on July 24, Interpol arrested her in Germany. As of September, Lozoya remained at large and was presumably out of the country. In a separate case, a judge ordered the detention of former social development minister Rosario Robles. On August 13, she was taken into custody pending criminal proceedings for her participation in an embezzlement scandal known as “Estafa Maestra,” arguing she was a flight risk. She was detained for two months while an investigation took place. She faced allegations of involvement in the disappearance of billions of pesos allocated for welfare programs during her tenure as minister.
**Financial Disclosure:** The law requires all federal- and state-level appointed or elected officials to disclose their income and assets, statements of any potential conflicts of interests, and tax returns. The Public Administration Secretariat monitors disclosures with support from each agency. Regulations require disclosures at the beginning and end of employment, as well as annual updates. The law requires declarations be made publicly available unless an official petition for a waiver to keep his or her file private. Criminal or administrative sanctions apply for abuses. President Lopez Obrador ordered all cabinet members to make their declarations public as a show of transparency. On July 9, the Coordinating Committee of the National Anti-Corruption System approved new formats for these asset disclosure statements. High-ranking public officials must include information related to their spouses and dependents to prevent conflicts of interest, but this information is to remain private. The new platform was scheduled to be operational by the end of the year.

**Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were mostly cooperative and responsive to their views, with the president, cabinet officials, or both meeting with human rights organizations, such as the OHCHR, IACHR, and the CNDH. Some NGOs alleged individuals who organized campaigns to discredit human rights defenders at times acted with tacit support from government officials. As of April the National Mechanism to Protect Human Rights Defenders and Journalists protected 790 individuals, 292 journalists, and 498 human rights defenders.

**Government Human Rights Bodies:** The CNDH is a semiautonomous federal agency created by the government and funded by the legislature to monitor and act on human rights violations and abuses. It may call on government authorities to impose administrative sanctions or pursue criminal charges against officials, but it is not authorized to impose penalties or legal sanctions. If the relevant authority accepts a CNDH recommendation, the CNDH is required to follow up with the authority to verify it is carrying out the recommendation. The CNDH sends a request to the authority asking for evidence of its compliance and includes this follow-up information in its annual report. When authorities fail to accept a recommendation, the CNDH makes that failure known publicly. It may exercise its power to call government authorities before the Senate who refuse to accept or enforce its recommendations.
All states have their own human rights commission. The state commissions are funded by state legislatures and are semiautonomous. State commissions did not have uniform reporting requirements, making it difficult to compare state data and therefore compile nationwide statistics. The CNDH may take on cases from state-level commissions if it receives a complaint that the state commission has not adequately investigated the case.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: Federal law criminalizes rape of men or women, including spousal rape, and conviction carries penalties of up to 20 years’ imprisonment. Spousal rape is criminalized in 24 states.

The federal penal code prohibits domestic violence and stipulates penalties for conviction of between six months’ and four years’ imprisonment. Of the 32 states, 29 stipulate similar penalties, although in practice sentences were often more lenient. Federal law criminalizes spousal abuse. State and municipal laws addressing domestic violence largely failed to meet the required federal standards and often were unenforced.

Killing a woman because of the victim’s gender (femicide) is a federal offense punishable by 40 to 60 years in prison. It is also a criminal offense in all states. According to Interior Secretariat statistics, in the first six months of the year, prosecutors and attorneys general opened 387 investigations into 402 cases of femicide throughout the country. (Statistics from state-level reports often conflated femicides with all killings of women.)

On November 7, anthropologist and human rights defender Raquel Padilla Ramos was killed by her domestic partner Juan Armando, in Ures, Sonora. On November 11, Armando pled guilty to femicide and was sentenced to 45 years in prison. He was also ordered to pay restitution to her family and an additional sum for pain and suffering.

The Special Prosecutor’s Office for Violence against Women and Trafficking in Persons in the Attorney General’s Office is responsible for leading government programs to combat domestic violence and prosecuting federal human trafficking
cases involving three or fewer suspects. The office had 30 prosecutors, of whom nine were exclusively dedicated to federal cases of violence against women.

In addition to shelters, women’s justice centers provided services including legal, psychological, and protective; however, the number of cases far surpassed institutional capacity.

**Sexual Harassment:** Federal labor law prohibits sexual harassment and provides for fines from 250 to 5,000 times the minimum daily wage. Of the 32 states, 16 criminalize sexual harassment, and all states have provisions for punishment when the perpetrator is in a position of power. According to the National Women’s Institute, the federal institution charged with directing national policy on equal opportunity for men and women, sexual harassment in the workplace was a significant problem.

As of December 2018, Mexico City and the states of Chihuahua, Jalisco, Puebla, and Yucatan had criminalized the distribution of “revenge pornography” and “sextortion.” Individuals may be prosecuted if they publish or distribute intimate images, audio, videos, or texts without the consent of the other party. The sentence ranges from six months to four years in prison.

**Coercion in Population Control:** There were no confirmed reports of coerced abortion or involuntary sterilization.

**Discrimination:** The law provides women the same legal status and rights as men and “equal pay for equal work performed in equal jobs, hours of work, and conditions of efficiency.” The government did not enforce the law effectively. Women tended to earn substantially less than men did for the same work. Women were more likely to experience discrimination in wages, working hours, and benefits.

**Children**

**Birth Registration:** Children derived citizenship both by birth within the country’s territory and from their parents. Citizens generally registered the births of newborns with local authorities. Failure to register births could result in the denial of public services, such as education or health care.

**Child Abuse:** There were numerous reports of child abuse. The National Program for the Integral Protection of Children and Adolescents, mandated by law, is
responsible for coordinating the protection of children’s rights at all levels of government.

**Early and Forced Marriage:** The legal minimum marriage age is 18. Enforcement, however, was inconsistent across the states. In April, Congress unanimously approved reforms to the law prohibiting child marriage. Excluding Baja California, which retained exceptions in its civil code, all states now prohibit marriage of persons younger than the age of 18 in their civil codes. The reforms came into force on June 4. Previously, some civil codes allowed girls to marry at 14 and boys at 16 with parental consent. With a judge’s consent, children may marry at younger ages.

**Sexual Exploitation of Children:** The law prohibits the commercial sexual exploitation of children, and authorities generally enforced the law. Nonetheless, NGOs reported sexual exploitation of minors, as well as child sex tourism in resort towns and northern border areas.

Statutory rape is a federal crime. If an adult is convicted of having sexual relations with a minor, the penalty is between three months and 30 years’ imprisonment depending on the age of the victim. Conviction for selling, distributing, or promoting pornography to a minor stipulates a prison term of six months to five years. For involving minors in acts of sexual exhibitionism or the production, facilitation, reproduction, distribution, sale, and purchase of child pornography, the law mandates seven to 12 years’ imprisonment and a fine.

Perpetrators convicted of promoting, publicizing, or facilitating sexual tourism involving minors face seven to 12 years’ imprisonment and a fine. Conviction for sexual exploitation of a minor carries an eight- to 15-year prison sentence and a fine.

**Institutionalized Children:** Civil society groups expressed concerns about abuse of children with mental and physical disabilities in orphanages, migrant centers, and care facilities.

Anti-Semitism

The 67,000-person Jewish community experienced low levels of anti-Semitism, but there were reports of some anti-Semitic expressions through social media. Jewish community representatives reported good cooperation with the government and other religious and civil society organizations in addressing rare instances of such acts.

Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at https://www.state.gov/trafficking-in-persons-report/.

Persons with Disabilities

Federal law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government did not effectively enforce the law. The law requires the Secretariat of Health to promote the creation of long-term institutions for persons with disabilities in distress, and the Secretariat of Social Development must establish specialized institutions to care for, protect, and house poor, neglected, or marginalized persons with disabilities. NGOs reported authorities had not implemented programs for community integration. NGOs reported no changes in the mental health system to create community services nor any efforts by authorities to have independent experts monitor human rights violations in psychiatric institutions. Public buildings and facilities often did not comply with the law requiring access for persons with disabilities. The education system provided special education for students with disabilities nationwide. Children with disabilities attended school at a lower rate than those without disabilities.

Abuses in mental health institutions and care facilities, including those for children, were a problem. Abuses of persons with disabilities included the use of physical and chemical restraints, physical and sexual abuse, trafficking, forced labor, disappearance, and the illegal adoption of institutionalized children. Institutionalized persons with disabilities often lacked adequate medical care and rehabilitation services, privacy, and clothing; they often ate, slept, and bathed in unhygienic conditions. They were vulnerable to abuse from staff members, other patients, or guests at facilities where there was inadequate supervision. Documentation supporting the person’s identity and origin was lacking. Access to justice was limited.
Voting centers for federal elections were generally accessible for persons with disabilities, and ballots were available with a braille overlay for federal elections in Mexico City, but these services were inconsistently available for local elections elsewhere in the country.

**Indigenous People**

The constitution provides all indigenous peoples the right to self-determination, autonomy, and education. Conflicts arose from interpretation of the self-governing “normative systems” laws used by indigenous communities. Uses and customs laws apply traditional practices to resolve disputes, choose local officials, and collect taxes, with limited federal or state government involvement. Communities and NGOs representing indigenous groups reported that the government often failed to consult indigenous communities adequately when making decisions regarding development projects intended to exploit energy, minerals, timber, and other natural resources on indigenous lands. The CNDH maintained a formal human rights program to inform and assist members of indigenous communities.

The CNDH reported indigenous women were among the most vulnerable groups in society. They often experienced racism and discrimination and were often victims of violence. Indigenous persons generally had limited access to health care and education services.

On February 20, gunmen shot and killed Samir Flores Soberanes, an indigenous and environmental rights activist with the Peoples in Defense of the Earth and Waterfront. State attorney general officials in Morelos opened an investigation into the killing in June, stating they believed it was related to his work fighting against the Integral Morelos Project, which would build two thermoelectric plants and a natural gas pipeline through indigenous communities. Soberanes was slain several days prior to a public referendum on the project. On May 3, unknown assailants killed activists Otilia Martinez Cruz and Gregorio Chaparro Cruz in the indigenous territory of Coloradas de la Virgen, Chihuahua.

On February 20, two years after the killing of indigenous activist Isidro Baldenegro, authorities sentenced his killer to 11 years in prison. In 2005 Baldenegro received the Goldman Environmental Prize for his nonviolent efforts against illegal logging in Chihuahua.
In 2018, 14 environmental activists were killed, compared with 15 in 2017, according to a Global Witness Report. A majority of the victims came from indigenous communities. Since 2013, 10 activists were killed in areas of conflict ostensibly due to their opposition to logging. One victim was Julian Carrillo Martinez, killed in October 2018 despite allegedly receiving law enforcement protection. A suspect was on trial for his murder. Mining was also a motivation of violence against activists.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

Federal law prohibits discrimination against lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals. A Mexico City municipal law provides increased penalties for hate crimes based on sexual orientation and gender identity. Civil society groups claimed police routinely subjected LGBTI persons to mistreatment while in custody.

Discrimination based on sexual orientation and gender identity was prevalent, despite a gradual increase in public tolerance of LGBTI individuals, according to public opinion surveys. There were reports the government did not always investigate and punish those complicit in abuses, especially outside Mexico City. A CNDH poll conducted during the year found six of every 10 members of the LGBTI community reported experiencing discrimination in the past year, and more than half suffered hate speech and physical aggression.

According to the OHCHR, in the first eight months of the year, there were 16 hate crime homicides in Veracruz, committed against nine transgender women and seven gay men.

Other Societal Violence or Discrimination

The Catholic Multimedia Center reported criminal groups targeted priests and other religious leaders in some parts of the country and subjected them to extortion, death threats, and intimidation. On August 22, Catholic priest Father Jose Martin Guzman was stabbed to death in his church in Matamoros. He was one of 26 priests killed in the past seven years, according to the center. On August 3, a Presbyterian minister was allegedly kidnapped from a migrant shelter he operated in Nuevo Laredo; as of October he had not been located. His disappearance was reportedly related to his refusal to allow cartels to recruit migrants from the shelter. No arrests were made in either case.
Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The government continued its efforts to strengthen freedom of association protections, promote union democracy, and improve the ability of workers to bargain collectively. On May 1, President Lopez Obrador signed a labor reform law aimed at ensuring workers may freely and independently elect union representatives and approve or reject collective bargaining agreements before they are implemented. Revisions to the constitution in 2017 envisioned independent labor courts to replace the system of conciliation and arbitration boards (CABs) and streamline the judicial process for labor disputes. The labor reforms passed during the year provide the implementing legislation for this new labor justice system and establish a four-year timeline for transfer. The government demonstrated its prioritization of labor reform through its commitment of budgetary resources and its regular issuance of implementing regulations to bring the new laws into force.

The government announced it would implement the labor reforms in a phased manner, beginning at the federal level and in 10 states in October 2020. In August unions began registering updated bylaws with the Secretariat of Labor and Social Protection and holding leadership elections under the terms of the labor reform. The registration process was scheduled to conclude in May 2020. The secretariat also began the process of having workers review and vote on the collective bargaining agreements under which they work following the procedures for free and fair elections under the new labor reform.

In September 2018 the Senate ratified International Labor Organization (ILO) Convention 98 on collective bargaining. By ratifying the convention, the government subjects itself to the convention’s oversight and reporting procedures. According to the independent unions, ratification also contributes to ensuring the institutions established as a result of the labor justice reform are, in law and practice, independent, transparent, objective, and impartial, with workers having recourse to the ILO’s oversight bodies to complain of any failure.

Federal labor law requires a minimum of 20 workers to form a union. To receive government recognition, unions must file for registration with the appropriate CAB or the Secretariat of Labor and Social Welfare. For the union to be able to function legally, its leadership must also register with the appropriate CAB or the
CABs operate under a tripartite system with government, worker, and employer representatives. Outside observers raised concerns that the boards did not adequately provide for inclusive worker representation and often perpetuated a bias against independent unions, in part because worker representation on the CABs was based on majority representation, which is held by “protection” unions. Protection unions and “protection contracts” were common in all sectors.

By law a union may call for a strike or bargain collectively in accordance with its own bylaws. Before a strike may be considered legal, a union must file a “notice to strike” with the appropriate CAB, which may find the strike is “nonexistent” and therefore illegal. The law prohibits employers from intervening in union affairs or interfering with union activities, including through implicit or explicit reprisals against workers. The law allows for reinstatement of workers if the CAB finds the employer hired the worker without just cause and the worker requests reinstatement; however, the law also exempts broad categories of employees from this protection, including so-called employees of confidence and workers who have been in the job for less than a year.

The government, including the CABs, did not consistently protect worker rights. The government’s common failure to enforce labor and other laws left workers with little recourse for violations of freedom of association, poor working conditions, and other labor problems. The CABs’ frequent failure to impartially and transparently administer and oversee procedures related to union activity, such as union elections, registrations and strikes, undermined worker efforts to exercise freely their rights to freedom of association and collective bargaining. For example, the government rejected registration applications for locals of independent unions, and for unions, based on technicalities.

Penalties for violations of freedom of association and collective bargaining laws were rarely applied and were insufficient to deter violations. Administrative and judicial procedures were subject to lengthy delays and appeals.

According to several NGOs and unions, many workers faced violence and intimidation around bargaining-rights elections perpetrated by protection union leaders and employers supporting them, as well as other workers, union leaders, and vigilantes hired by a company to enforce a preference for a particular union. Some employers attempted to influence bargaining-rights elections through the illegal hiring of pseudo employees immediately prior to the election to vote for the company-controlled union. CABs were widely alleged to administer these elections with a bias against new, independent unions, resulting in delays and other
procedural obstacles that impacted the results and undermined workers’ right to organize.

Other intimidation and manipulative practices were common, including dismissal of workers for labor activism. For example, 57 workers at a Goodyear factory in San Luis Potosí alleged they were fired after striking in April 2018 to demand better working conditions, wages, and authentic union representation. The workers claimed that because of their independent strike, a corporatist union had blackballed them from working in other factories.

b. Prohibition of Forced or Compulsory Labor

The constitution and the law prohibit all forms of forced or compulsory labor, but the government did not effectively enforce the law. While penalties for conviction of forced labor were sufficient to deter violations, very few cases reached the court system or were successfully prosecuted.

Forced labor persisted in the industrial and agricultural sectors, especially in the production of chili peppers and tomatoes, as well as in the informal sector. Women and children were subject to domestic servitude. Women, children, indigenous persons, and migrants (including men, women, and children) were the most vulnerable to forced labor. In July 2018 authorities identified 50 forced agricultural workers on three commercial tomato farms in Coahuila. Authorities in Coahuila freed an additional 25 forced agricultural workers—including nine children—from a chili pepper and tomato farm in August 2018. In both cases the victims reportedly lived in unsanitary conditions, worked excessive hours under the threat of dismissal, and received subminimum wage payments or no payment at all.

Day laborers and their children were the primary victims of forced and child labor in the agricultural sector. In 2016 INEGI reported 44 percent of persons working in agriculture were day laborers. Of the day laborers, 33 percent received no financial compensation for their work. Only 3 percent of agricultural day laborers had a formal written contract.

Indigenous persons in isolated regions reported incidents of forced labor, in which cartel members forced them to perform illicit activities or face death. Minors were recruited or forced by cartels to traffic persons, drugs, or other goods across the border. In July authorities in Chihuahua rescued 21 men who had been kidnapped
and forced to grow marijuana and poppies, allegedly by the Sinaloa Cartel. Migrants were also recruited by criminal organizations to conduct illicit activities.

Also see the Department of State’s Trafficking in Persons Report at https://www.state.gov/trafficking-in-persons-report/.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the worst forms of child labor. The constitution and the law prohibit children younger than age 15 from working and allows those ages 15 to 17 to work no more than six daytime hours in nonhazardous conditions daily, and only with parental permission and permission from the labor authority. The law requires children younger than 18 to complete compulsory basic education and to have a medical certificate to work. The minimum age for hazardous work, including all work in the agricultural sector, is 18. The law prohibits minors from working in a broad list of hazardous and unhealthy occupations.

The government was reasonably effective in enforcing child labor laws in large and medium-sized companies, especially in the export-oriented factory (maquiladora) sector and other industries under federal jurisdiction. Enforcement was inadequate in many small companies and in agriculture and construction, and nearly absent in the informal sector, in which most child laborers worked. In January the newspaper El Universal reported as many as 400 children were working on tomato and chili pepper farms near Coahuayana, Michoacan, receiving little education and earning very low wages.

Underage children in urban areas throughout the country earned money by begging, washing windshields, selling small items, or performing in public places for gratuities. In April authorities in Sinaloa announced they had identified 312 children who had been working in the streets of various cities. In the same month, two children from Chiapas were identified in Reynosa, Tamaulipas, while begging in the streets dressed as clowns. Authorities found the children had no relatives in the area and were possibly victims of human trafficking. In October 2018 authorities identified 63 persons, including 56 children, who had been forced to work in the streets of Oaxaca, and arrested 11 individuals on charges of human trafficking.

At the federal level, the Secretariat of Social Development, Attorney General’s Office, and National System for Integral Family Development share responsibility for inspections to enforce child labor laws and to intervene in cases in which
employers violated such laws. The Secretariat of Labor is responsible for carrying out child labor inspections. Penalties for violations were not sufficiently enforced to deter violations.

According to a 2017 INEGI survey, the number of employed children ages five to 17 was 3.2 million, or approximately 11 percent of children in the country. This represented a decrease from 12.4 percent of children in the 2015 INEGI survey. Of these children, 7.1 percent were younger than the minimum age of work or worked under conditions that violated federal labor laws, such as performing hazardous work. Child labor was most common in the agricultural sector; children worked in the harvest of beans, chili peppers, coffee, cucumbers, eggplants, melons, onions, tobacco, and tomatoes, as well as in the production of illicit crops such as opium poppies. Other sectors with significant child labor included services, retail sales, manufacturing, and construction.

Also, see the Department of Labor’s *List of Goods Produced by Child Labor or Forced Labor* at [https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods](https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods).

**d. Discrimination with Respect to Employment and Occupation**

The constitution and the law prohibit discrimination with respect to employment or occupation. The federal labor law specifically proscribes discrimination on the basis of ethnicity, nationality, gender, age, handicap (or challenged capacity), social status, health, religion, immigration status, political opinion, sexual preference, marital status, or pregnancy. The government did not effectively enforce the law or regulations. According to a 2017 INEGI survey, 12 percent of women had been illegally asked to take a pregnancy test as a prerequisite to being hired. Job announcements specifying desired gender, age, marital status, and parental status were common.

INEGI reported in 2017 that 23 percent of working women experienced violence in the workplace within the past 12 months and 6 percent experienced sexual violence.

Penalties for violations of the law included administrative remedies, such as reinstatement, payment of back wages, and fines (often calculated based on the employee’s wages), and were not generally considered sufficient to deter violations. Discrimination in employment or occupation occurred against women,
indigenous groups, persons with disabilities, LGBTI individuals, and migrant workers.

e. Acceptable Conditions of Work

The tripartite National Minimum Wage Commission is responsible for establishing minimum salaries. In December 2018 it unanimously approved the largest general minimum wage increase (16 percent) in 23 years and a doubling of the minimum wage in the economic zone along the border with the United States. Wages had stagnated since 1994, with the country’s minimum wage declining almost 20 percent in real terms. Despite the minimum wage increase, the real general minimum wage fell once again below the official poverty line. Nonetheless, most formal-sector workers received between one and three times the minimum wage. The minimum wage increase set off major strikes by unionized workers in Matamoros, who demanded employers honor contractual employment clauses unique to the city requiring all wages to go up by a factor of any minimum wage increase. According to reports, manufacturing executives in the northern border region colluded with one another to keep wages artificially low. As a result of the strikes in Matamoros, most of the manufacturing plants agreed to worker demands, a general wage increase of 20 percent and a bonus of 32,000 pesos ($1,600).

The federal labor law sets six eight-hour days and 48 hours per week as the legal workweek. Any work in excess of eight hours in a day is considered overtime, for which a worker is to receive double pay. After accumulating nine hours of overtime in a week, a worker earns triple the hourly wage. The law prohibits compulsory overtime. The law provides for eight paid public holidays and one week of paid annual leave after completing one year of work. The law requires employers to observe occupational safety and health regulations, issued jointly by the Secretariat of Labor and the Institute for Social Security. Legally mandated joint management and labor committees set standards and are responsible for overseeing workplace standards in plants and offices. Individual employees or unions may complain directly to inspectors or safety and health officials. By law workers may remove themselves from situations that endanger health or safety without jeopardy to their employment.

The Secretariat of Labor is responsible for enforcing labor laws and inspecting workplaces. Neither the number of labor inspections nor the penalties for violations of labor law were sufficient to secure compliance with labor law. A chemical spill on July 9 by the mining company Grupo Mexico called widespread public attention to that company’s long record of safety and environmental
violations, leading President Lopez Obrador to call for talks with union leaders and Grupo Mexico’s ownership to resolve the miners’ grievances. Through its DECLARALAB self-evaluation tool, the secretariat provided technical assistance to almost 4,000 registered workplaces to help them meet occupational safety and health regulations.

According to labor rights NGOs, employers in all sectors sometimes used the illegal “hours bank” approach—requiring long hours when the workload is heavy and cutting hours when it is light—to avoid compensating workers for overtime. This was a common practice in the maquiladora sector, in which employers forced workers to take leave at low moments in the production cycle and obliged them to work in peak seasons, including the Christmas holiday period, without the corresponding triple pay mandated by law for voluntary overtime on national holidays. Additionally, many companies evaded taxes and social security payments by employing workers informally, using subcontracting regimes or by submitting falsified payroll records to the Mexican Social Security Institute. INEGI estimated 57 percent of the workforce was engaged in the informal economy during the year. Of the 30 million informal workers, approximately one-quarter (7.6 million) were employed by formal businesses or organizations, often paid in cash, off the books, to evade taxes and social security payments.

Observers from grassroots labor rights groups, international NGOs, and multinational apparel brands reported that employers in export-oriented supply chains were increasingly using hiring methods that lessened job security. For example, manufacturers commonly hired workers on one- to three-month contracts, and then waited a period of days before rehiring them on another short-term contract, to avoid paying severance and to prevent workers from accruing seniority. This practice violated federal labor law and restricted worker’s rights to freedom of association and collective bargaining. Observers noted it also increased the likelihood of work-related illness and injury. Outsourcing practices made it difficult for workers to identify their legally registered employer, limiting their ability to seek redress of labor grievances.

Citizens hoping to secure temporary, legal employment in the United States and other countries frequently paid recruiters hundreds or thousands of dollars in prohibited fees to secure jobs, and many prospective workers were promised jobs that did not exist. Allegations of abusive and fraudulent recruitment practices rarely were investigated. Although the law requires entities recruiting for overseas employment to register with the Secretariat of Labor, there is no enforcement mechanism, and only a handful of recruiters complied. During the year the
secretariat’s National Employment Service began reviewing ways to enforce the foreign recruitment registration law.

The situation of agricultural workers remained particularly precarious, with similar patterns of exploitation throughout the sector. Labor recruiters enticed families to work during harvests with verbal promises of decent wages and a good standard of living. Rather than pay them daily wages once a week, as mandated by law, day laborers had to meet certain harvest quotas to receive the promised wage. Wages may be illegally withheld until the end of the harvest to ensure the workers do not leave, and civil society organizations alleged workers were prohibited from leaving by threats of violence or by nonpayment of wages. Workers had to buy food and other items at the company store at high markups, at times leaving them with no money at the end of the harvest after settling debts. Civil society groups reported families living in inhuman conditions, with inadequate and cramped housing, no access to clean water or bathrooms, insufficient food, and without medical care. With no access to schools or childcare, many workers brought their children to work in the fields. Due to alleged corruption and opacity, in January the federal government eliminated the Program of Care for Agricultural Day Labors, which was intended to reduce the vulnerability of agricultural migrant workers.

News reports indicated there were poor working conditions in some maquiladoras. These included low wages, contentious labor management, long work hours, unjustified dismissals, a lack of social security benefits, unsafe workplaces, and no freedom of association. Many women working in the industry reported suffering some form of abuse. Most maquiladoras hired employees through outsourcing with few benefits.

In April the Senate unanimously approved legislation intended to improve working conditions for the 2.4 million domestic workers, 90 percent of whom were women, by making it possible for them to enroll in social security, thereby gaining access to benefits such as medical services, child care, and maternity leave.

According to data from the Mexican Social Security Institute, in 2018 there were 201,310 workplace accidents, resulting in 303 deaths. In June an accident involving an industrial press in Nuevo Leon caused the partial amputation of four workers’ arms. In August an accident at a silver and gold mine in Oaxaca killed a contractor who was operating heavy machinery.
Tab. 2.
Responses to Information Requests

Responses to Information Requests (RIR) are research reports on country conditions. They are requested by IRB decision makers.

The database contains a seven-year archive of English and French RIR. Earlier RIR may be found on the European Country of Origin Information Network website.

Please note that some RIR have attachments which are not electronically accessible here. To obtain a copy of an attachment, please e-mail us.

Related Links

- Advanced search help

18 August 2019

MEX106340.E

Mexico: Situation of sexual and gender minorities, including in Mérida (Yucatán) and Monterrey (Nuevo León), including legislation, treatment by authorities and society; state protection and support services available (2017-August 2019)

Research Directorate, Immigration and Refugee Board of Canada

1. Legislation

1.1 Legislation Regarding Discrimination

The Federal Law to Prevent and Eliminate Discrimination (Ley Federal para Prevenir y Eliminar la Discriminación) provides protection against discrimination based on sex, gender and sexual preferences (Mexico 2003, Art. 1). In 2011, the first article of the constitution was updated to include discrimination based on sexual preference (Mexico 29 June 2018, 4; ILGA Mar. 2019, 110).

The National Council for the Prevention of Discrimination (Consejo Nacional para Prevenir la Discriminación, CONAPRED) [1] indicates that all 32 states in Mexico have anti-discrimination laws (Mexico 29 June 2018, 5). Nuevo León passed its state law in 2017,
including discrimination based on sexual orientation, and discrimination against transgender individuals and intersex people (Nuevo León 2017, Art. 4). Yucatán's state law covers [translation] "sexual orientation and gender other than heterosexual" (Yucatán 2016, Art. 17).

1.2 Legislation on Same-Sex Marriage and on the Right to Adoption

According to sources, Mexico City legalized same-sex marriage in 2009 (ILGA Mar. 2019, 110; Pew Research Center 17 May 2019). Sources indicate that, in 2015, Mexico's Supreme Court (Suprema Corte de Justicia de la Nación, SCJN) issued a ruling that bans on same-sex marriage were unconstitutional (ILGA Mar. 2019, 110, 278; Jones Day 21 Sept. 2015). The same sources note that marriages performed in a state with legalized same-sex marriage must be recognized by other states (ILGA Mar. 2019, 110, 278; Jones Day 21 Sept. 2015). Similarly, the Pew Research Center, a "nonpartisan fact tank" conducting "data-driven social sciences research" on "issues, attitudes and trends shaping the world" (Pew Research Center n.d.), reports that the decision permitted same-sex couples to "seek a court injunction against state laws banning gay marriage" (Pew Research Center 17 May 2019).

According to the Mazatlán Post, a news website, same-sex marriage is "not allowed" in the state of Yucatán (The Mazatlán Post 12 Feb. 2019). Similarly, the Yucatan Times, an English language news website based in the Yucatan peninsula (The Yucatan Times n.d.), states that Article 94 of the state constitution provides that in "Yucatán, only heterosexual couples can get legally married" (The Yucatan Times with Notimex 12 Apr. 2019). On 10 April 2019, the local Congress of Yucatán voted against reforming the constitution of the state to allow same-sex marriage (The Yucatan Times with Notimex 12 Apr. 2019; Diario de Yucatán 10 Apr. 2019). Sources state that Mexico's Supreme Court ruling of 2015 requires all states to recognize same-sex marriages, but that in states where legislation does not provide for same-sex marriage (ILGA Mar. 2019, 278; Jones Day 21 Sept. 2015), same-sex couples must request an amparo ("special injunction") to have their marriage recognized in (Jones Day 21 Sept. 2015) or receive decisions on a "case-by-case" basis (ILGA Mar. 2019, 278). Sources state that the amparo process works, but that it takes time (Austrian Red Cross and ACCORD May 2017, 6; The Mazatlán Post 12 Feb. 2019) and costs money (Austrian Red Cross and ACCORD May 2017, 6; Notimex 12 June 2019; The Mazatlán Post 12 Feb. 2019). Sources state that the amparo process costs approximately US$1,000 (Austrian Red Cross and ACCORD May 2017, 6) or 20,000 to 50,000 Mexican pesos (MXN) [approximately C$1376 to C$3440] (Notimex 12 June 2019). Regarding the prevalence of access, the Mazatlán Post reports that in the past five years, 90 couples have used the amparo process in Yucatán (The Mazatlán Post 12 Feb. 2019). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.
In February 2019, Mexico’s Supreme Court declared as invalid articles 140 and 148 of the civil code of Nuevo León, which define marriage as a union between a man and a woman, and legalized same-sex marriage (Mexico 31 May 2019). The newspaper *Milenio* reports that on 11 March 2019, the first couple registered their same-sex marriage without an amparo (*Milenio* 11 Mar. 2019).

Sources report that in 2011 (Stonewall Aug. 2018) or in 2015 (Jones Day 21 Sept. 2015), Mexico’s Supreme Court declared the constitutional right of same-sex married couples to adopt (Stonewall Aug. 2018, 1; Jones Day 21 Sept. 2015). However, according to Jones Day, a global law firm which publishes information on same-sex legislation around the world (Jones Day Feb. 2015), not all states recognize this right and couples may have to seek an amparo (Jones Day 21 Sept. 2015). The same source adds that an amparo is not legally binding for all Mexican courts and "same-sex couples may use the above-mentioned Mexican Supreme Court ruling in order to substantiate their petition, but judges will still be free to deviate from such ruling" (Jones Day 21 Sept. 2015). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

### 1.3 Legal Process to Change the Gender on a Birth Certificate

Sources report that the administrative process to change the gender on a birth certificate is available in Mexico City, Michoacán, Nayarit (Mexico 29 June 2018, 6; Stonewall Aug. 2018; ILGA Nov. 2017, 98), Colima, Coahuila and Hidalgo (*El Universal* 2 July 2019; Centro de Apoyo a las Identidades Trans, AC 15 July 2019). In correspondence with the Research Directorate, a representative from Centro de Apoyo a las Identidades Trans, AC, an NGO that supports the human rights of the transgender population in Mexico, stated that it is not possible to legally change your gender in the state of Nuevo León (Centro de Apoyo a las Identidades Trans, AC 15 July 2019). However, in correspondence with the Research Directorate, a representative from Fundación Trans Amor, AC [2] stated that [translation] "it is possible today to change your name and your birth gender, through a simple judiciary process that does not usually take more than four weeks and requires a minimum of requirements that do not violate your rights" (Fundación Trans Amor, AC 9 July 2019). The same source added that changing your birth certificate is a necessary step to changing your school documents, banking information, social security and housing documents (Fundación Trans Amor, AC 9 July 2019).

According to sources, it costs approximately 70 MXN [C$4.82] to process the form to change the name on identity documents (*El Universal* 29 June 2019; ILGA Nov. 2017, 99). Sources report that transgender people travel to Mexico City from other states to change their birth certificate (ILGA Nov. 2017, 99; DW 23 July 2017). Sources note that Mexico’s Supreme
Court ruled in favour of a transgender person from Veracruz who was then allowed to change their name and gender without having to go before a judge, as it was then required by the Veracruz state (Pink News 9 May 2019; Human Rights Watch 29 Oct. 2018). Human Rights Watch adds that, instead, the person has to undergo a "simple administrative process, based solely on their own declaration of their gender identity" (Human Rights Watch 29 Oct. 2018).

2. Treatment by Society
2.1 Discrimination and Societal Attitudes

According to sources, machismo is still embedded in Mexican culture, which increases homophobia and discrimination against sexual minorities (Mexico and Fundación Arcoiris Nov. 2018a, 27; Corral July 2018, 60). For further information on machismo and gender norms in Mexico, see Response to Information Request MEX106111 of May 2018. Sources state that in smaller towns and rural areas, there is less acceptance than in cities (US 30 May 2019; Stonewall Aug. 2018, 2). The representative from Fundación Trans Amor indicated that while there have been changes in legislative, judicial and health matters, the social situation in Monterrey has changed "very little" and that violence and discrimination are still present in society and families (Fundación Trans Amor, AC 9 July 2019). The same source indicated that Nuevo León was the last state in Mexico to pass a law that criminalizes homophobia and transphobia (Fundación Trans Amor, AC 9 July 2019). Diario de Yucatán, a newspaper based in Yucatán, reported in May 2019 that a couple was denied service at a restaurant in Monterrey for being gay; according to the source, the couple entered the restaurant holding hands and were told to leave because it is a [translation] “family environment” (Diario de Yucatán 2 May 2019). El Universal, a Mexican newspaper, reported that in May 2019 a group called Strong Families United for Nuevo León (Familias Fuertes Unidas por Nuevo León) sued a group of drag queens who read stories to children, on grounds of [translation] “corruption of minors” (El Universal 25 June 2019).

Sources indicate that most sexual minorities have experienced physical acts of violence or harassment based on their sexual orientation or gender identity (Mexico and Fundación Arcoiris Nov. 2018b, 26-28; Letra S May 2019, 10). The 2017 National Survey on the State of Discrimination (Encuesta nacional sobre discriminación, ENADIS), co-authored by the CONAPRED and the National Institute for Statistics, Geography and Information (Instituto Nacional de Estadística, Geografía e Informática, INEGI), surveyed 102,245 people to identify experiences of discrimination in different social contexts and to [translation] "grasp attitudes, prejudices and opinions" that people have about distinct populations that are discriminated against (Mexico 2018a, 3). According to the survey, in Nuevo León, 72-79.4 percent of respondents, and in the Yucatán 64.3-71.9 percent of respondents, answered that they agreed [translation] “very little” or “not at all” that same-sex couple should be able to live together.
The same source reports that 30 percent of female and 35 percent of male respondents across the country would not rent a room to a gay or lesbian person, and that 33 percent of female and 41 percent of male respondents would not rent a room to a transgender person (Mexico 2018a, 14).

The 2018 edition of the National Survey on Discrimination Based on Sexual Orientation and Gender Identity (Encuesta sobre discriminación por motivos de orientación sexual e identidad de género, ENDISOG) [3] finds that 75 percent of 9,328 respondents belonging to sexual minorities reported that they avoid showing affection to their partner in public, due to fear (Mexico 2018b, 26). The same survey states that 40 percent of parents reacted with [translation] “total support,” 33 percent “support and dislike” and 26 percent “rejection” when the respondent disclosed their sexual orientation (Mexico 2018b, 11). The source adds that 85-90 percent of respondents reported [translation] “total support” when disclosing their sexual orientation to their schoolmates, co-workers and friends (Mexico 2018b, 12).

Sources indicate that sexual minority students reported discrimination and harassment based on their gender identity or sexual orientation at school (Mexico and Fundación Arcoiris Nov. 2018a, 29; Corral July 2018, 60) and that the use of homophobic slurs in school is common (Mexico and Fundación Arcoiris Nov. 2018a, 28). In 2013, the state of Nuevo León passed the Law to Prevent, Address and Eradicate Discrimination and Harassment and Violence in Schools in the State of Nuevo León (Ley para Prevenir, Atender y Erradicar el Acoso y la Violencia Escolar del Estado de Nuevo León) (Nuevo León 2013). However, the representative from Fundación Trans Amor noted that educational institutions have refused to enforce it (Fundación Trans Amor, AC 9 July 2019). Desastre, a Mexican news website on LGBTI issues, reported a case of two lesbian students facing harassment and physical aggression at a University in Nuevo León, wherein the school responded by suspending the two victims (Desastre 28 Jan. 2019). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

### 2.2 Treatment of Transgender and Non-Binary Individuals

According to the 2018 ENDOSIG, when disclosing their gender identity, respondents reported a response of [translation] “total support” 65.9 percent of the time from school mates, 66.9 percent from coworkers, and 79.9 percent from friends (Mexico 2018b, 12). When respondents disclosed their identity to their parents, the reported reaction varied between fathers and mothers: respondents reported [translation] “total support” 30.7 percent of the time from fathers and 36.9 percent from mothers, “support and dislike” 29.9 percent from fathers and 24.1 percent from mothers, and “rejection” 39.4 percent from fathers and 38.9 percent
from mothers (Mexico 2018b, 11). The same source indicates that 65 to 79 percent reported [translation] “total support” when they disclosed their gender identity to their school colleagues, co-workers and friends (Mexico 2018b, 12).

The National Study on Discrimination of LGBTI People in Mexico: Rights at Work (Diagnóstico nacional sobre la discriminación hacia personas LGBTI en México: Derecho al trabajo) by the Executive Commission for Care of Victims (Comisión Ejecutiva de Atención a Víctimas, CEAV) and the Fundación Arcoiris for the Respect of Sexual Diversity (Fundación Arcoiris por el Respeto a la Diversidad Sexual, AC, Fundación Arcoiris) [4] states that transgender women reported the highest rate of employment out of all respondents with 82 percent employed at the time of the survey (Mexico and Fundación Arcoiris Nov. 2018c, 29). In comparison, bisexual respondents and transgender men have the lowest employment rate, with respectively 65 percent of bisexuals and 66 percent of transgender men having employment (Mexico and Fundación Arcoiris Nov. 2018c, 29). However, without providing further details, the Alliance for Diversity and Inclusion in the Workplace (Alianza por la Diversidad e Inclusión Laboral, ADIL) [5] also states that among LGBTI populations, transgender and non-binary people earn less on average than lesbians, gay men and bisexuals (ADIL Aug. 2018, 21).

According to the CEAV and Fundación Arcoiris, 25 percent of transgender women respondents engage in sex work (Mexico and Fundación Arcoiris Nov. 2018c, 30). The same source writes that almost all respondents who engaged in sex work were transgender, noting that this may be related to the lack of other employment options, which is caused by lack of acceptance (Mexico and Fundación Arcoiris Nov. 2018c, 30). Similarly, Asistencia Legal por los Derechos Humanos (Legal Assistance for Human Rights, Asilegal), a civil society organization that works with individuals deprived of their liberty (Asilegal 2019, 2), states the following in their alternative report to the UN Committee Against Torture:

As a result of the discriminatory and excluding social context against LGBT persons, many trans women see their labor opportunities restricted to access ideal working conditions which allow them to have economic independence and solvency, which inclines them into doing sex labor. Regardless of the reasons behind the job performance, this activity puts them in riskier situations of suffering violence, torture and other ill-treatment. (Asilegal 2019, 26)

Mexico’s Ministry of Health (Secretaría de Salud) has guidelines on treating LGBTI people; the guidelines cover guidance for working with transgender individuals, including providing access to hormonal therapy and gender affirming surgery (Mexico 15 May 2019, 52-65). According to the representative of Fundación Trans Amor, there are very few cases in which a transgender person, who has been denied health care, has managed to carry out the applicable protocols, such as successfully requesting a consultation with an endocrinologist, a laboratory analysis, or obtaining a hormonal assessment (Fundación Trans Amor, AC 9 July
2019). Without providing further details, sources reported cases of transgender and non-binary people having to stop hormonal treatment against their will (Mexico 2018b, 18) or being denied access to gender confirmation medical treatment (Mexico and Fundación Arcoiris Nov. 2018d, 55).

According to the National Electoral Institute (Instituto Nacional Electoral, INE), sexual minorities experience prejudice, stigmatization and violence which can impact their right to vote (Mexico May 2018, 47, 49). The INE’s guide to electoral inclusion includes a section on the rights of transgender people to vote which states that all transgender people with voting credentials who are registered on the electoral list have the right to vote, and that they should not be discriminated against if their gender expression or photograph does not match their voting credentials (Mexico May 2018, 50). However, Human Rights Watch states the following:

If your gender marker contrasts with your appearance, any juncture in daily life that requires showing your identity card – a traffic stop, a financial transaction, a medical appointment – is laden with the risk of ridicule, interrogation, and even violence. (Human Rights Watch 29 Oct. 2018)

3. Access to Employment

According to the national study on LGBTI discrimination in the workplace by CEAV and Fundación Arcoiris, which was completed by 3,451 respondents across the country (Mexico and Fundación Arcoiris Nov. 2018c, 23), 30 percent of respondents reported that being LGBTI was an obstacle to employment occasionally, 21 percent said frequently, and 10 percent said always, while 30 percent estimated that it was never an obstacle (Mexico and Fundación Arcoiris Nov. 2018c, 34). The report states that some employers ask job candidates questions about sexual orientation, pregnancy, and HIV status (Mexico and Fundación Arcoiris Nov. 2018c, 33). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources state that the number of companies in Mexico that have adopted policies to promote LGBT equality and inclusion is increasing (Human Rights Campaign n.d.; Fundación Trans Amor, AC 9 July 2019). The UK-based LGBT organization Stonewall’s *Global Workplace Briefings 2018* on Mexico, a report that “outlines the legal, socio-cultural and workplace situation for LGBT people in the specified country” (Stonewall 31 May 2016), reports that "[m]any multinational organizations have diversity and inclusion initiatives that promote LGBT equality in the workplace" (Stonewall Aug. 2018). On 8 May 2019, the government of Mexico created an LGBTI Support Network for the Public Service (Red de Apoyo LGBTI de la Función Pública), with the objective of [translation] “creating an inclusive and respectful organizational
Further information on the LGBTI Support Network could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Other sources indicate that sexual minorities experience discrimination in the workplace (Vela Barba 11 Dec. 2017, 90; Mexico and Fundación Arcoiris Nov. 2018c, 36; CE Noticias Financieras 28 June 2019a). According to Stonewall, "many" LGBTI people hide their sexual orientation or gender identity at work out of fear that it will have a negative impact on their career (Stonewall Aug. 2018, 2). Similarly, ADIL states that 56 percent of the respondents to the Survey on Diversity and LGBT Talent in Mexico (Encuesta sobre la diversidad y talento LGBT in México) do not disclose their sexual orientation or gender identity at work (ADIL Aug. 2018, 18). In the 2018 national study on discrimination of LGBTI people in the workplace by CEAV and Fundación Arcoiris, 43 percent of respondents reported being harassed, bullied or discriminated against in the workplace, and Afro-Descendant sexual minorities reported the highest rate at 58.49 percent (Mexico and Fundación Arcoiris Nov. 2018c, 29, 38). However, 89.5 percent of respondents to the 2018 ENDOSIG survey reported [translation] “total support” from their boss when they disclosed their sexual orientation (Mexico 2018b, 12). For respondents who disclosed their gender identity to their boss, 66 percent reported [translation] “total support” and 25 percent reported “rejection” (Mexico 2018b, 12).

4. Access to Health Care and Social Benefits

In 2017, according to UNAIDS, a new Ministry of Health Code of Conduct was introduced to "guarantee effective access" to health care services for sexual minorities (UN 25 Aug. 2017). However, sources indicate that sexual minorities reported experiences of discrimination related to their gender identity or sexual orientation when accessing medical services (Fundación Trans Amor, AC 9 July 2019; Mexico and Fundación Arcoiris Nov. 2018d, 58). According to the 2018 National Study on Discrimination Against LGBTI Persons in Mexico: Right to Health (Diagnóstico nacional sobre la discriminación hacia personas LGBTI en México: derecho a la salud) by the CEAV and Fundación Arcoiris, 50 percent of the 3,451 respondents said “no,” 18 percent said “occasionally,” 6 percent said “frequently,” and 3 percent said “always” when asked about derogatory or discriminatory comments from health care providers based on their sexual orientation or gender identity (Mexico and Fundación Arcoiris Nov. 2018d, 59). The ENDOSIG survey reports that 24 percent of transgender people, 11.7 percent of lesbian women and 9.3 percent of gay men responded that they had experienced discrimination based on their gender identity or sexual orientation when accessing health care (Mexico 2018b, 22).
According to the 2018 national study on discrimination against sexual and gender minorities in Mexico, 41.8 percent of the respondents answered [translation] “No” and 31.1 percent answered “I don’t know” when asked about the existence of adequate public health services for sexual minorities (Mexico and Fundación Arcoiris Nov. 2018d, 43-44). According to the source, this denotes the absence of adequate LGBTI health services as well as a lack of knowledge of those services among sexual minorities (Mexico and Fundación Arcoiris Nov. 2018d, 43-44). Sources report that in February 2019, the federal government announced it would no longer fund civil society organizations for activities such as outreach and HIV testing (Letra S 27 Feb. 2019; Reuters 17 Apr. 2019). Further information on the implementation of this decision could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to sources, same-sex couples can register as partners to receive benefits from the Mexican Social Security Institute (Instituto Mexicano del Seguro Social, IMSS) (Notimex 28 June 2019; El Universal 7 Nov. 2018), a federal institution that provides medical and social benefits to insured workers and their families (Mexico n.d.a). However, sources report that same-sex partners were denied benefits and had to seek legal recourse to access them (Animal Político 17 Nov. 2017; The Mazatlán Post 19 Aug. 2018). El Universal reports that, in November 2018, reforms to the social welfare regulations were passed to ensure same-sex couple’s equal access to social security benefits (El Universal 7 Nov. 2018). The website for the Institute of Social Security and Services of State Workers (Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado, ISSSTE) indicates that it is free for same-sex couples to register as concubinarios (civil union) without a marriage certificate, but they must confirm that they have been cohabitating for at least 5 years (Mexico n.d.b). Same-sex couples who are married can register by providing a marriage certificate (Mexico n.d.c). The ISSSTE reports that 457 same-sex couples have registered since 2014 - 400 as married couples and 57 as concubinarios (Mexico 18 May 2019).


5. Violence Against Sexual and Gender Minorities
In its annual report on extreme violence against sexual minorities, the organization Letra S, AIDS, Culture and Daily Life (Letra S, Sida, Cultura, y Vida Cotidiana, AC, Letra S) [7] indicates that more LGBT individuals were killed in 2017 and 2018 than in previous years (2013-2016), for reasons believed to be due to their real or perceived sexual or gender identity (Letra S May 2019, 21). The same source specifies that, from 2013 to 2018, 18 people from Nuevo León and 12 people from Yucatán were murdered (Letra S May 2019, 30). In some cases, there was evidence of sexual violence or torture, and the most common weapons were blunt objects and fire arms (Letra S May 2019, 36-38). Without providing further details, sources report occurrences of gay men being targeted by gangs, often seducing and then robbing them (Pink News 19 May 2017; Desastre 27 Sept. 2018). News sources also reported cases of LGBT activists being targeted and murdered (Agencia EFE 18 June 2018; Pink News 13 Feb. 2019; Agencia Presentes 27 Mar. 2018).

5.1 Violence Against Transgender Individuals

According to Stonewall, transgender individuals are "regularly" victims of "violent hate crimes [that] often end in murder" (Stonewall Aug. 2018, 2). According to the CEAV and Fundacion Arcoiris, 66 percent of transgender women, 41 percent of transgender men and 41 percent of intersex people who responded to the survey on LGBTI discrimination regarding the rights to safety and to justice declared that they were victims of physical assault (Mexico and Fundacion Arcoiris Nov. 2018b, 28). In a compilation of "reported murders of trans and gender-diverse people," the Transrespect vs. Transphobia Worldwide (TvT) project, a comparative research project by the advocacy network Transgender Europe (TGEU) (TGEU n.d.), reports, without providing further details, that in 2008, 4 transgender people were murdered in Mexico while in 2017, the number was 65 (TGEU 2018).

6. Treatment by State Authorities

Sources state that sexual minorities have reported cases of violence or aggression by the police (Asilegal 2019; Nuevo León Aug. 2018, 61) and of being detained for their LGBT status (Mexico and Fundación Arcoiris Nov. 2018b, 33). According to a report on discrimination of LGBTI people regarding access to justice and security by the CEAV and Fundación Arcoiris, 31 percent of transgender women respondents and 15 percent of homosexuals said they had been detained because of their LGBTI status (Mexico and Fundación Arcoiris Nov. 2018b, 33). In the 2018 ENDOSIG survey, 30.8 percent of respondents reported that they received [translation] "arbitrary and discriminatory treatment from police" (Mexico 2018b, 21). In Monterrey, the Nuevo León State Human Rights Commission (Comisión Estatal de Derechos
Humanos Nuevo León, CEDH) received complaints of [translation] "alleged" human rights violations from same sex couples who reported physical and verbal aggression from municipal police (Nuevo León Aug. 2018, 61).

According to the CEDH, [translation] "vague terminology" in laws such as “abnormal sexual life” makes LGBT people vulnerable to the interpretation by local authorities (Nuevo León Aug. 2018, 67-68). The representative from Centro de Apoyo a las Identidades Trans indicated that there are laws in the Monterrey Penal Code that "criminalize" LGBT populations such as [translation] “article 195 that describes affronts to morality or decency (ultrajes a la moral o a las buenas costumbres)” (Centro de Apoyo a las Identidades Trans 15 July 2019).

7. State Protection

The National Justice Procurement Conference (Conferencia Nacional de Procuración de Justicia) produced a protocol for the personnel of the courts for cases involving sexual orientation or gender identity on how to interview victims and investigate crimes involving sexual minorities (Mexico Dec. 2017, 20). According to La Jornada Maya, a newspaper in Yucatán, protocols need to be expanded at the state level (La Jornada Maya 12 Dec. 2018). Conversely, the representative from the Fundación Trans Amor noted that progress has been made judicially, and that police bodies tend to follow the different protocols of action that have been issued by the federal government (Fundación Trans Amor, AC 9 July 2019).

According to sources, the government does not adequately investigate crimes against sexual minorities (US 13 Mar. 2019, 30; Mexico and Fundación Arcoiris Nov. 2018b, 39; Asilegal, et al. 2019, 71). According to the US Department of State's Country Reports on Human Rights Practices for 2018, on 5 August 2018, a young man was beaten to death by a group of taxi drivers outside a gay bar in San Luis Potosí (US 13 Mar. 2019, 30). The source further states that local LGBTI rights defenders argued that the young man was killed because of his sexual orientation and that homophobia in the police force led to negligence in the investigation (US 13 Mar. 2019, 30). The report on discrimination against LGBTI people regarding access to justice and security notes that [translation] “the high percentage of people who don’t report the aggressions or crimes is alarming,” and indicates that the two main reasons for not reporting are mistrust and alleged inaction of the authorities (Mexico and Fundación Arcoiris Nov. 2018b, 35).

Sources report that when sexual minorities are murdered, 8.4 percent (17 of 202 cases between 2014 and 2016) (Pink News 20 June 2018) or 10.5 percent of cases are classified as "hate crimes" (Letra S May 2019, 41). Agencia Presentes, a non-profit regional LGBTI news source for Latin America (Agencia Presentes n.d.), reports that in Mexico City, the police did not investigate the murder of a transgender woman as a hate crime because she used to be a sex worker (Agencia Presentes 24 Apr. 2019). Letra S explains that many cases are treated as
[translation] “crimes of passion” or as assault or robbery, and that perpetrators often use the justification of “legitimate defense” against sexual insinuations or harassment or of a “heated emotional state” as defense strategies (Letra S May 2019, 41, 46). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

8. Community and Support Services

8.1 Mérida, Yucatán

The website of the Yucatán State Human Rights Commission (Comisión de Derechos Humanos del Estado de Yucatán, CODHEY) indicates that it provides free legal services in cases of human rights abuses at a municipal or state level (Yucatán n.d.a). According to their website, there is no formal process to initiate their services and citizens can start the process by telephone, email or [translation] “any other existing means of communication” (Yucatán n.d.b).

Yucatrans is a collective of transgender people in Mérida that promotes the human rights of transgender and non-binary people (Yucatán n.d.c). Further information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The Psychological, Sexological and Educational Attention Unit for Personal Growth, AC (Unidad de Atención Sicológica, Sexológica y Educativa para el Crecimiento Personal, AC, UNASSE) provides rapid HIV testing, support group for HIV positive clients and a free semi-structured support group for transgender persons every week (UNASSE n.d.; UNASSE 3 June 2019).

In February 2019, the mayor of Mérida, Yucatán announced the formation of the Municipal Council Against the Discrimination of Sexual Diversity (Consejo Municipal Contra la Discriminación de la Diversidad Sexual), whose activities would include planning and evaluating activities aimed at fighting discrimination against sexual minorities (El Grillo 22 Feb. 2019; Yucatán en Corto 23 Feb. 2019). Further information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

8.2 Monterrey, Nuevo León

Sources indicate that there are organizations that specifically serve sexual minorities in Monterrey (MovINL n.d.; Gay Monterrey n.d.). Organizations that provide legal advocacy and legislative lobbying include:

- Litiga, AC is an organization that provides legal support for amparos related to marriage and protection of rights for LGBTTI citizens (Litiga n.d.);
The CEDH runs a program to promote and protect the rights of LGBT persons (Nuevo León n.d.a). The CEDH website indicates that it provides support for filing cases of human rights abuses (Nuevo León n.d.b) and provides support to victims throughout the legal process (Nuevo León n.d.c);

Gender, Ethics, and Sexual Health (Género, Etica y Salud Sexual AC, GESSAC) is a non-profit organization that [translation] "promotes the visibility of LGBTTI people, and legal changes to grant the same rights to all people without discrimination" (GESSAC n.d);

Fundación Trans Amor is an NGO that provides support to transgender girls, boys, and adolescents and their families in Monterrey; they offer personal, family, school, work and legal programming (Fundación Trans Amor, AC 9 July 2019);

Acción Colectiva por los Derechos de las Minorías Sexuales, AC (ACODEMIS, AC), a civil society organization, provides rapid HIV testing and outreach services to men who have sex with men through initiatives on STI and HIV education (ACODEMIS, AC n.d.).

Comunidad Metropolitana, AC (COMAC) provides rapid HIV testing (COMAC n.d.a) and outreach to LGBTI spaces to dispense education and free condoms (COMAC n.d.b), as well as providing psychological services such as individual or couples counselling (COMAC n.d.c).

8.3 Educational Institutions

Educational institutions that have LGBTI student collectives include:

- Tecnológico de Monterrey's student group Association for the Integration, Respect and Equality (Asociación por la Integración, Respeto y Equidad, AIRE) promotes community, wellness and visibility of sexual and gender diversity (AIRE n.d.a), and hosts LGBTI events on campus and in the community (AIRE n.d.b);
- Universidad Autónoma de Nuevo León’s student group University Students for Equity and a Full and Inclusive Society (Universitarios por la Equidad y una Sociedad Íntegra e Incluyente, UNESII), provides information on sexuality, and seeks to empower young LGBTI people to avoid harassment, discrimination and violence (UNESII n.d.a), and hosts LGBTI events on campus and in the community (UNESII n.d.b);
- Universidad de Monterrey’s student group Sexual Diversity Representation Community (Comunidad de Representación de la Diversidad Sexual, CREDS) promotes dialogue and inclusive education, sexual diversity representation (CREDS n.d.a.), and hosts LGBTI events on campus (CREDS n.d.b).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The National Council for the Prevention of Discrimination (Consejo Nacional para Prevenir la Discriminación, CONAPRED) is a federal agency that promotes policies and measures to contribute to cultural and social development, to advance social inclusion, and to guarantee
the right to equality (Mexico City n.d.). CONAPRED is responsible for receiving and investigating complaints for alleged discrimination committed by individuals or public servants (Mexico City n.d.).

[2] Fundaciòn Trans Amor, AC is a civil society organization that supports transgender girls, boys and adolescents and their families in the city of Monterrey, Nuevo León (Fundación Trans Amor, AC 9 July 2019).

[3] The 2018 National Survey on Discrimination Based on Sexual Orientation and Gender Identity (Encuesta sobre discriminación por motivos de orientación sexual e identidad de género, ENDISOG) was conducted by the CONAPRED and the National Commission of Human Rights (Comisión Nacional de Derechos Humanos, CNDH) and was aimed at [translation] "individuals aged 16 and older, who are residing in Mexico and who self-identify as gays, lesbians, bisexuals, trans (transgender, travestit, transsexuals) and of other non-normative sexual orientations and gender identities (SOGI)" (Mexico 2018b, 2).

[4] The National Study on Discrimination of LGBTI People in Mexico: Rights at Work (Diagnóstico nacional sobre la discriminación hacia personas LGBTI en México: derecho al trabajo) is a study describing the situation of sexual minorities regarding their right to employment (Mexico and Fundación Arcoiris Nov. 2018c, 7). The study was conducted from 2015 to 2017 by the Executive Commission for Care of Victims (Comisión Ejecutiva de Atención a Víctimas, CEAV) and the Arcoiris Foundation for the Respect of Sexual Diversity (Fundación Arcoiris por el respeto a la diversidad sexual, AC, Fundación Arcoiris) (Mexico and Fundación Arcoiris Nov. 2018c, 8). The CEAV supports victims of federal crimes or of violation of their human rights (Mexico n.d.d). The Fundación Arcoiris is a [translation] "social organization focused on the analysis of sexuality in Latin America and the Caribbean" seeking to influence the key actors in the rights protection of people discriminated against because of their sexuality (Fundación Arcoiris n.d.).

[5] The Alliance for Diversity and Inclusion in the Workplace (Alianza por la Diversidad e Inclusión Laboral, ADIL) is a professional group that promotes inclusion and respect towards LGBT people in the workplace, through training and communication strategies, events and studies with national and international companies (ADIL n.d.). Its members gather years of work experience with LGBT populations in different fields (agencies international, education, companies, government agencies, media and civil society organizations) (ADIL n.d.).

[6] The American Psychiatric Association (APA) position statement on conversion therapy and LGBTQ patients states that “[s]ince 1998, the American Psychiatric Association has opposed any psychiatric treatment, such as 'reparative' or conversion therapy, which is based upon the assumption that homosexuality per se is a mental disorder or that a patient should change his/her homosexual orientation" (APA Dec. 2018).
[7] Letra S, AIDS, Culture and Daily Life (Letra S, Sida, Cultura, y Vida Cotidiana, AC, Letra S) is a "non-profit civil society organization aimed at the dissemination of information and the defense of human rights. [It] focus[es] on topics related to the trinomial of sexuality, health and society. [It particularly focuses on] topics of sexual diversity, gender, HIV, sexually transmitted diseases, and sexual/reproductive rights" (Letra S n.d.).

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Tab. 3.
EXECUTIVE SUMMARY

Mexico is a multiparty federal republic with an elected president and bicameral legislature. Andres Manuel Lopez Obrador of the National Regeneration Movement won the presidential election on July 1 in generally free and fair multiparty elections and took office on December 1. Citizens also elected members of the Senate and the Chamber of Deputies, governors, state legislators, and mayors.

Civilian authorities generally maintained effective control over the security forces.

Human rights issues included reports of the involvement by police, military, and other state officials, sometimes in coordination with criminal organizations, in unlawful or arbitrary killings, forced disappearance, torture, and arbitrary detention by both government and illegal armed groups; harsh and life-threatening prison conditions in some prisons; impunity for violence against journalists and state and local censorship and criminal libel; and violence targeting lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons.

Impunity for human rights abuses remained a problem, with extremely low rates of prosecution for all forms of crimes. The government’s federal statistics agency (INEGI) estimated 94 percent of crimes were either unreported or not investigated.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were several reports the government or its agents committed arbitrary or unlawful killings, often with impunity. Organized criminal groups were implicated in numerous killings, acting with impunity and at times in league with corrupt federal, state, local, and security officials. The National Human Rights Commission (CNDH) reported 25 complaints of “deprivation of life” between January and November 30.

On January 7, more than 200 members of the military, Guerrero state police, and Federal Police arbitrarily arrested and executed three indigenous security force members in La Concepcion. The killings occurred in tandem with reports of the
arbitrary arrest of 38 persons, 25 illegal house searches, and the torture of at least eight persons. According to the human rights nongovernmental organization (NGO) Centro de Derechos Humanos de la Montana Tlachinollan, the security forces arrived to investigate a confrontation between armed persons and community police. Witnesses said state police executed two community police officers during the confrontation. Witnesses alleged two state police officers took a community police officer to a nearby building, where he was later found dead.

Representatives of the UN Office of the High Commissioner for Human Rights (OHCHR) in Mexico City condemned the operation, stating there was evidence human rights violations occurred at the hands of security forces.

In September the CNDH concluded soldiers executed two men and planted rifles on their bodies during a 2017 shootout between authorities and fuel thieves in Palmarito, Puebla. The CNDH recommended the army pay reparations to the victims' families. Some of the killings were captured on video, including of a soldier appearing to execute a suspect lying on the ground.

There were no developments in the investigation into the 2015 Tanhuato, Michoacan, shooting in which federal police agents were accused of executing 22 persons after a gunfight and of tampering with evidence.

In May a federal judge ordered the Attorney General’s Office (PGR) to reopen the investigation into the 2014 killings of 22 suspected criminals in Tlatlaya, Mexico State, by members of the military, specifically calling for an investigation into the role of the chain of command. The judge ruled that the PGR’s investigation thus far had not been exhaustive, adequate, or effective. (The Government of Mexico has appealed the ruling.) According to multiple NGOs, the four former state attorney general investigative police officers convicted of torturing suspects in this case were released from custody.

Criminal organizations carried out human rights abuses and widespread killings throughout the country, sometimes in coordination with state agents.

b. Disappearance

There were reports of forced disappearances--the secret abduction or imprisonment of a person by security forces--and of many disappearances related to organized criminal groups, sometimes with allegations of state collusion. In its data collection, the government often merged statistics on forcibly disappeared persons with missing persons not suspected of being victims of forced disappearance,
making it difficult to compile accurate statistics on the extent of the problem. The CNDH registered 38 cases of alleged “forced or involuntary” disappearances through November 30.

Investigations, prosecutions, and convictions for the crime of forced disappearance were rare. According to information provided by the Federal Judicial Council, from December 1, 2006, to December 31, 2017, only 14 sentences for forced disappearance were issued. At the federal level, as of August 2017, the deputy attorney general for human rights was investigating 943 cases of disappeared persons. Some states were making progress investigating this crime. At the state level, a Veracruz special prosecutor for disappearances detained 65 persons during the year for the crime of forced disappearance.

There were credible reports of police involvement in kidnappings for ransom, and federal officials or members of the national defense forces were sometimes accused of perpetrating this crime.

Nationwide, the CNDH reported the exhumation of the remains of at least 530 persons in 163 clandestine graves between January 1, 2017 and August 31, 2018. The scale and extent of the problem is indicated by the discovery, in the past eight years in Veracruz State, of 601 clandestine graves with the remains of 1,178 victims.

The federal government and several states failed to meet deadlines for implementing various provisions of the November 2017 General Law on Forced Disappearances, and efforts by the federal government were insufficient to address the problem. State-level search commissions should have been established by mid-April; as of August only seven of 32 states had done so. Only 20 states had met the requirement to create specialized prosecutors’ offices focused on forced disappearances. The federal government created a National System for the Search of Missing Persons as required by the law but had not established the required National Forensic Data Bank and Amber Alert System as of this reporting period.

As of April 30, according to the National Registry of Missing Persons, a total of 37,435 individuals were recorded as missing or disappeared, up 40 percent, compared with the total number at the end of 2014. The National Search Commission, created in March, shut down this registry in July as part of the process to create a new registry, which it planned to make public in early 2019. The new database would include more than 24,000 genetic profiles of the relatives
of the disappeared as well as information such as fingerprints, parents’ names, and dates of birth of the victims, according to government officials.

In February an estimated 31 former high-ranking Veracruz state security officials and members of the state police involved in disappearances and acts of torture in 2013 were ordered apprehended on charges of forced disappearance. Former state police chief Roberto Gonzalez Meza was among the 19 arrested in February. In June former state attorney general Luis Angel Bravo Contreras was arrested and placed in custody while awaiting trial on charges related to the forced disappearance of 13 individuals. An additional seven Veracruz former state police officers were detained in August for the crime of forced disappearance of two persons in 2013.

In May the OHCHR announced it had documented the disappearance of 23 individuals—including five minors—by Mexican security forces between February and May in Nuevo Laredo, Tamaulipas. The federal Specialized Prosecutor’s Office on Disappearances opened an investigation into the disappearances in June, and the navy temporarily suspended 30 personnel while they conducted an investigation.

On June 4, a three-judge panel of a federal appeals court in Tamaulipas ruled that authorities had failed to investigate indications of military and federal police involvement in the disappearance of 43 students from a teacher-training college in Ayotzinapa in Iguala, Guerrero, in 2014. The court faulted the PGR for not investigating evidence that suspects were tortured to coerce confessions while in PGR custody. During the year the PGR indicted 31 municipal police officers for kidnapping, involvement with organized crime, and aggravated homicide related to the case. Victims’ relatives and civil society continued to be highly critical of PGR’s handling of the investigation, noting there had been no convictions relating to the disappearances of the 43 students. The court ruled that PGR’s investigation had not been prompt, effective, independent, or impartial and ordered the government to create a special investigative commission composed of representatives of the victims, PGR, and CNDH. The government appealed the ruling, claiming it infringed upon the principle of separation of powers. An intermediate court upheld the appeal, and the case was scheduled to go to the Supreme Court for review. On December 2, one day after his inauguration, President Andres Manuel Lopez Obrador ordered the creation of a truth commission—headed by the deputy minister for human rights of the Ministry of Interior—to re-examine the disappearances.
In other developments related to the Ayotzinapa case, on March 15 the OHCHR released a report of gross violations of human rights and due process in the Ayotzinapa investigation, including arbitrary detention and torture. The OHCHR found “solid grounds” to conclude at least 34 individuals were tortured in the course of the investigation, most of them while in the custody of the PGR’s Sub-Prosecutor for Organized Crime. The report highlighted the possible extrajudicial killing of one suspect, Emanuell Alejandro Blas Patino, who was allegedly tortured to death by asphyxiation with a plastic bag and multiple blows to his body by officials from the Ministry of the Navy (SEMAR) on October 27, 2014.

On June 5, the Inter-American Commission on Human Rights Special Mechanism issued a follow-up report that found the government’s investigation into the Ayotzinapa case had been fragmented, with many lines of investigation proceeding slowly or prematurely dismissed. The report acknowledged some progress in the investigation, including the creation of a map of graves and crematorium ovens in the region, steps taken to investigate firearms possibly used on the night of the events, topographic survey work conducted using remote sensing technology, and following up with ground searches for possible burial sites.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture and other cruel, inhuman, or degrading treatment or punishment, and confessions obtained through illicit means are not admissible as evidence in court. Despite these prohibitions, there were reports that security forces tortured suspects.

As of November 30, the CNDH registered 57 complaints of torture. Between January 1, 2017, and August 2018, the CNDH recorded 496 complaints of cruel, inhuman, or degrading treatment. The majority of these complaints were from Tamaulipas, Mexico City, Mexico State, and Veracruz; federal police and PGR officials were accused of being responsible in most torture cases. NGOs stated that in some cases the CNDH misclassified torture as inhuman or degrading treatment.

Less than 1 percent of federal torture investigations resulted in prosecution and conviction, according to government data. The PGR conducted 13,850 torture investigations between 2006 and 2016, and authorities reported 31 federal convictions for torture during that period. The federal Specialized Torture Investigation Unit, created in 2015 within the PGR, reported in February it had opened 8,335 investigations but had presented charges in only 17 cases.
According to the national human rights network “All Rights for All” (*Red TDT*), as of August only two states, Chihuahua and Colima, had updated their state torture law to comply with the federal law passed in 2017. Only eight states had assigned a specialized torture prosecutor, and many of them lacked the necessary resources to investigate cases. According to the NGO INSYDE, there were not enough doctors and psychologists who could determine if psychological torture had occurred, and authorities were still struggling to investigate torture accusations from incarcerated victims.

In March the OHCHR found “solid grounds” to conclude at least 34 individuals were tortured in the course of the investigation of the disappearance of 43 students in Iguala in 2014 (see section 1.b.).

In June the World Justice Project reported the ongoing transition to an oral-accusatory justice system from the previous written, inquisitorial system had reduced the frequency of torture.

In July 2017, INEGI published the National Survey of Detained Persons, which surveyed individuals held in all municipal, state, or federal prisons. Of detainees who had given a statement to a public prosecutor, 46 percent reported being pressured by the police or other authorities to give a different version of the events. Of detainees who had confessed, 41 percent said they declared their guilt due to pressure, threats, or physical assaults. Detainees reported physical violence (64 percent) and psychological threats (76 percent) during their arrest and reported that, while at the public prosecutor’s office, they were held incommunicado or in isolation (49 percent), threatened with false charges (41 percent), undressed (40 percent), tied up (29 percent), blindfolded (26 percent), and suffocated (25 percent). According to 20 percent, authorities made threats to their families, and 5 percent reported harm to their families.

On September 6, the CNDH called upon federal authorities to investigate the alleged illegal detention and torture of 17 persons between 2013 and 2017 by SEMAR marines. The CNDH stated that 17 federal investigators ignored or delayed acting on reports made by the victims. The CNDH detailed sexual assaults, beatings, electric shocks, and suffocation committed by marines against their captives before turning them over to federal law enforcement. The detentions and torture allegedly occurred in the states of Coahuila, Nuevo Leon, Sinaloa, Veracruz, and Zacatecas.
There was one report that torture was used to repress political speech. The Oaxaca Consortium for Parliamentary Dialogue and Equity reported a series of escalating attacks, including torture against human rights defenders in Oaxaca in retaliation for their activities. For example, after Oaxaca human rights defenders Arturo Villalobos Ordonez and Patricia Mendez publicly denounced police repression and other abuses in Nochixtlan and other abuses, their minor daughter suffered threats and harassment starting in January and culminating in an incident May 7 in which two men entered her home, stomped on her head, submerged her in water, showed her pictures of mutilated corpses, and threatened that her parents would face the same fate if she did not reveal their whereabouts.

On April 30, the CNDH issued a formal report to the director of the National Migration Institute (INM), indicating that INM personnel committed “acts of torture” against a Salvadoran migrant in October 2017. According to the CNDH document, the victim accompanied another migrant to a migratory station in Mexicali, where an INM official and two guards repeatedly physically struck the migrant and threatened him for 15 to 20 minutes. The CNDH concluded the victim suffered a fractured rib and other injuries as well as psychological trauma.

In a November report, the NGO Centro Prodh documented 29 cases of sexual torture between 2006 and 2015 in 12 states (Baja California, Ciudad de Mexico, Coahuila, Estado de Mexico, Guerrero, Michoacan, Nuevo Leon, Quintana Roo, San Luis Potosi, Sonora, Tamaulipas, and Veracruz); 16 of the 29 cases were reported as rape. Twenty-seven women had reported their torture to a judge, but in 18 cases, no investigation was ordered. Members of the Ministry of National Defense (SEDENA), SEMAR, federal police, and state police of Tamaulipas, Veracruz, and Coahuila were allegedly involved.

In December 2017 the OHCHR Subcommittee on Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment issued a report based on a 2016 visit that noted torture was a widespread practice in the country. The subcommittee noted that disparities in the classification of the crime of torture in the states continued to generate real or potential gaps that lead to impunity.

**Prison and Detention Center Conditions**

Conditions in prisons and detention centers were harsh and life threatening due to corruption; overcrowding; abuse; inmate violence; alcohol and drug addiction; inadequate health care, sanitation, and food; comingling of pretrial and convicted persons; and lack of security and control.
Physical Conditions: According to a 2017 CNDH report, federal, state, and local detention centers suffered from “uncontrolled self-government in aspects such as security and access to basic services, violence among inmates, lack of medical attention, a lack of opportunities for social reintegration, a lack of differentiated attention for groups of special concern, abuse by prison staff, and a lack of effective grievance mechanisms.” The most overcrowded prisons were plagued by riots, revenge killings, and jailbreaks. Criminal gangs often held de facto control. Inmates staged mass escapes, battled each other, and engaged in shootouts using guns that police and guards smuggled into prisons.

Health and sanitary conditions were often poor, and most prisons did not offer psychiatric care. Some prisons were staffed with poorly trained, underpaid, and corrupt correctional officers, and authorities occasionally placed prisoners in solitary confinement indefinitely. Authorities held pretrial detainees together with convicted criminals. The CNDH noted that the lack of access to adequate health care, including specialized medical care for women, was a significant problem. Food quality and quantity, heating, ventilation, and lighting varied by facility, with internationally accredited prisons generally having the highest standards.

The CNDH found several reports of sexual abuse of inmates in the state of Mexico’s Netzahualcoyotl Bordo de Xochiaca Detention Center. Cases of sexual exploitation of inmates were also reported in Mexico City and the states of Chihuahua, Guerrero, Nayarit, Oaxaca, Puebla, Quintana Roo, Sinaloa, Sonora, Tamaulipas, and Veracruz.

In March the CNDH released its 2017 National Diagnostic of Penitentiary Supervision. The report singled out the states of Nayarit, Guerrero, and Tamaulipas for poor prison conditions. The report highlighted overcrowding, self-governance, and a lack of personnel, protection, hygienic conditions, and actions to prevent violent incidents. The report faulted prisons for failing to separate prisoners who have yet to be sentenced from convicts.

The CNDH found the worst conditions in municipal prisons. The CNDH determined that public security agents used excessive force in an October 2017 Cadereyta prison riot that left 18 persons dead and 93 injured. Self-governance at the prison led to the riot, which was exacerbated by the state public security and civil forces’ inadequate contingency planning. This was the fifth lethal riot at a Nuevo Leon prison since 2016.
In December 2017 the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment published a report based on a 2016 visit, concluding municipal prisons had deplorable conditions. The report found infrastructure, hygiene, and services were inadequate. There was little natural light and ventilation, cells were cold at night, and prisoners did not have access to blankets. The subcommittee encountered numerous prisoners, including minors, who had not received water or food for 24 hours. The subcommittee observed some centers lacked medical equipment and basic medication. Prisoners had to rely on family members to provide medication, thus low-income prisoners were sometimes left without medical care.

A 2016 INEGI survey of 211,000 inmates in the country’s 338 state and federal penitentiaries revealed that 87 percent of inmates reported bribing guards for items such as food, telephone calls, and blankets or mattresses. Another survey of 64,000 prisoners revealed that 36 percent reported paying bribes to other inmates, who often controlled parts of penitentiaries. Six of 10 LGBTI prisoners were victims of abuse such as sexual violence and discrimination at the hands of other prisoners or security officials, according to a 2015 Inter-American Commission on Human Rights (IACHR) report.

According to civil society groups, migrants in some migrant detention centers faced abuse when comingled with MS-13 gang members. In addition, they reported some migration officials discouraged persons from applying for asylum, claiming their applications were unlikely to be approved, and that some officials from the National Institute of Migration kidnapped asylum seekers for ransom.

Administration: Prisoners and detainees could file complaints regarding human rights violations. Authorities did not always conduct proper investigations into credible allegations of mistreatment.

Independent Monitoring: The government permitted independent monitoring of prison conditions by the International Committee of the Red Cross, the CNDH, and state human rights commissions.

Improvements: Federal and state facilities continued to seek or maintain international accreditation from the American Correctional Association. As of September the total number of state and federal accredited facilities was 92, an increase of 11 facilities from August 2017. Chihuahua and Guanajuato were the only states to have all their prisons accredited.
d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, but the government sometimes failed to observe these requirements. Between January 1, 2017 and August 2018, the CNDH recorded 618 complaints of arbitrary detention.

Role of the Police and Security Apparatus

Federal, state, and municipal police have primary responsibility for law enforcement and the maintenance of order. The Federal Police are under the authority of the interior minister and the National Security Commission. State police are under the authority of the state governors. Municipal police are under the authority of local mayors. SEDENA and SEMAR also play an important role in domestic security, particularly in combatting organized criminal groups. The constitution grants the president the authority to use the armed forces for the protection of internal and national security, and the courts have upheld the legality of the armed forces’ role in undertaking these activities in support of civilian authorities. The INM, under the authority of the Interior Ministry, is responsible for enforcing migration laws and protecting migrants.

In December 2017 the president signed the Law on Internal Security to provide a more explicit legal framework for the role the military had been playing for many years in public security. The law authorized the president to deploy the military to assist states in policing at the request of civilian authorities. The law subordinated civilian law enforcement operations to military authority in some instances and allowed the president to extend deployments indefinitely in cases of “grave danger.” With some exceptions, the law required military institutions to transfer cases involving civilian victims, including in human rights cases, to civilian prosecutors to pursue in civilian courts. SEDENA, SEMAR, the Federal Police, and the PGR have security protocols for the transfer of detainees, chain of custody, and use of force. At least 23 legal challenges were presented to the Supreme Court of Justice seeking a review of the law’s constitutionality, including one by the CNDH. On November 15, the Supreme Court ruled the Law on Internal Security was unconstitutional.

As of August 2017 the PGR was investigating 138 cases involving SEDENA or SEMAR officials suspected of abuse of authority, torture, homicide, and arbitrary detention. By existing law, military tribunals have no jurisdiction over cases with civilian victims, which are the exclusive jurisdiction of civilian courts.
Although civilian authorities generally maintained effective control over security forces and police, impunity, especially for human rights abuses, remained a serious problem.

By law, civilian courts have jurisdiction in cases involving allegations of human rights violations against civilians committed by members of the military. Military authorities, however, can and do investigate such cases in parallel with civilian authorities, and can charge military suspects with crimes under military law in military courts.

SEDAÑA’s General Directorate for Human Rights investigates military personnel for violations of human rights identified by the CNDH and is responsible for promoting a culture of respect for human rights within the institution. The directorate, however, has no power to prosecute allegations of rights violations or to take independent judicial action.

**Arrest Procedures and Treatment of Detainees**

The constitution allows any person to arrest another if the crime is committed in his or her presence. A warrant for arrest is not required if an official has direct evidence regarding a person’s involvement in a crime, such as having witnessed the commission of a crime. This arrest authority, however, is applicable only in cases involving serious crimes in which there is risk of flight. Bail is available for most crimes, except for those involving organized crime and a limited number of other offenses. In most cases the law requires that detainees appear before a judge for a custody hearing within 48 hours of arrest during which authorities must produce sufficient evidence to justify continued detention. This requirement was not followed in all cases, particularly in remote areas of the country. In cases involving organized crime, the law allows authorities to hold suspects up to 96 hours before they must seek judicial review.

The procedure known in Spanish as *arraigo* (a constitutionally permitted form of pretrial detention, employed during the investigative phase of a criminal case before probable cause is fully established) allows, with a judge’s approval, for certain suspects to be detained prior to filing formal charges.

Some detainees complained of a lack of access to family members and to counsel after police held persons incommunicado for several days and made arrests arbitrarily without a warrant. Police occasionally failed to provide impoverished
detainees access to counsel during arrest and investigation as provided for by law, although the right to public defense during trial was generally respected. Authorities held some detainees under house arrest.

In August the CNDH concluded an investigation that revealed eight persons, including five minors, had suffered violations at the hands of Federal Police in Ciudad Victoria, Tamaulipas, in 2013. The CNDH sent a recommendation to the National Security Commission concerning the investigation. According to the investigation, federal police agents entered a home without a warrant and arrested three persons. One adult was reportedly tortured.

Human rights NGOs and victims alleged numerous incidents between January and July in which Coahuila state police forces abused detainees in custody in the border city of Piedras Negras and surrounding areas. The state prosecutor general’s office was investigating the accusations.

On May 14, the CNDH withdrew without action more than 90 percent of the 2,972 complaints filed against SEDENA from 2012 to May.

**Arbitrary Arrest:** Allegations of arbitrary detentions persisted throughout the year. The IACHR, the UN Working Group on Arbitrary Detention, and NGOs expressed concerns about arbitrary detention and the potential for arbitrary detention to lead to other human rights abuses.

In February, Yucatan state police detained three persons near Dzitas, on the grounds that their car had extremely dark tinted windows and the driver did not have a driver’s license. The victims alleged that later they were falsely charged with threatening the police officers and drug possession. The victims reported being blindfolded and tortured by electric shock to their hands and genitalia. One of the three was allegedly forcibly disappeared. Once he reappeared, the others withdrew their complaints.

**Pretrial Detention:** Lengthy pretrial detention was a problem. The new accusatory justice system allows for a variety of pretrial measures, including electronic monitoring, travel restrictions, and house arrest, that reduced the use of the prison system overall, including the use of pretrial detention. A 2018 World Prison Brief report showed that 39.4 percent of individuals detained were in pretrial detention, compared to 42.7 percent in 2005. The law provides time limits and conditions on pretrial detention, but federal authorities sometimes failed to comply with them,
since caseloads far exceeded the capacity of the federal judicial system. Violations of time limits on pretrial detention were endemic in state judicial systems.

**Detainee’s Ability to Challenge Lawfulness of Detention before a Court:** Persons who are arrested or detained, whether on criminal or other grounds, may challenge their detention through a writ of habeas corpus. The defense may argue, among other things, that the accused did not receive proper due process, suffered a human rights abuse, or had his or her constitutional rights violated. By law individuals should be promptly released and compensated if their detention is found to be unlawful, but authorities did not always promptly release those unlawfully detained. In addition, under the criminal justice system, defendants apprehended during the commission of a crime may challenge the lawfulness of their detention during their court hearing.

### e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, court decisions were susceptible to improper influence by both private and public entities, particularly at the state and local level, as well as by transnational criminal organizations. Authorities sometimes failed to respect court orders, and arrest warrants were sometimes ignored. Across the criminal justice system, many actors lacked the necessary training and resources to carry out their duties fairly and consistently in line with the principle of equal justice.

**Trial Procedures**

In 2016 all civilian and military courts officially transitioned from an inquisitorial legal system based primarily upon judicial review of written documents to an accusatory trial system reliant upon oral testimony presented in open court. In some states alternative justice centers employed mechanisms such as mediation, negotiation, and restorative justice to resolve minor offenses outside the court system.

Under the accusatory system, all hearings and trials are conducted by a judge and follow the principles of public access and cross-examination. Defendants have the right to a presumption of innocence and to a fair and public trial without undue delay. Defendants have the right to attend the hearings and to challenge the evidence or testimony presented. Defendants may not be compelled to testify or confess guilt. The law also provides for the rights of appeal and of bail in many categories of crimes. Defendants have the right to an attorney of their choice at all
stages of criminal proceedings. By law attorneys are required to meet professional qualifications to represent a defendant. Not all public defenders were qualified, however, and often the state public defender system was understaffed. Administration of public defender services was the responsibility of either the judicial or the executive branch, depending on the jurisdiction. According to the Center for Economic Research and Teaching, most criminal suspects did not receive representation until after their first custody hearing, thus making individuals vulnerable to coercion to sign false statements prior to appearing before a judge.

Defendants have the right to free assistance of an interpreter if needed, although interpretation and translation services into indigenous languages at all stages of the criminal process were not always available. Indigenous defendants who did not speak Spanish sometimes were unaware of the status of their cases and were convicted without fully understanding the documents they were instructed to sign.

The lack of federal rules of evidence caused confusion and led to disparate judicial rulings.

**Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

**Civil Judicial Procedures and Remedies**

Citizens have access to an independent judiciary in civil matters to seek civil remedies for human rights violations. For a plaintiff to secure damages against a defendant, authorities first must find the defendant guilty in a criminal case, a significant barrier in view of the relatively low number of criminal convictions.

**f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such practices and requires search warrants. There were some complaints of illegal searches or illegal destruction of private property.

**Section 2. Respect for Civil Liberties, Including:**

**a. Freedom of Expression, Including for the Press**
The law provides for freedom of expression, including for the press, and the government generally respected this right. Most newspapers, television, and radio stations were privately owned. The government had minimal presence in the ownership of news media but remained the main source of advertising revenue for many media organizations, which at times influenced coverage. Media monopolies, especially in small markets, could constrain freedom of expression.

**Violence and Harassment:** Journalists were murdered or subject to physical attacks, harassment, and intimidation (especially by state agents and transnational criminal organizations) due to their reporting. This limited media’s ability to investigate and report, since many of the reporters who were killed covered crime, corruption, and local politics. According to the NGO Article 19, as of December 5, nine journalists had been killed because of their reporting.

Perpetrators of violence against journalists acted with impunity. According to Article 19, as of August the impunity rate for crimes against journalists was 99.7 percent. In 2017 there were 507 attacks against journalists, according to Article 19. Since its creation in 2010, the Office of the Special Prosecutor for Crimes Against Journalists (FEADLE), a PGR unit, won only eight convictions, and none for murder, in the more than 2,000 cases it investigated. On August 25, FEADLE won its first conviction in the new justice system, obtaining a sentence against Tabasco state police officers for illegally detaining a journalist because of his reporting.

Government officials believed organized crime to be behind most of these attacks, but NGOs asserted there were instances when local government authorities participated in or condoned the acts. According to Article 19, in the last five years, 48 percent of physical attacks against journalists originated with public officials. Although 75 percent of those came from state or local officials, federal officials and members of the armed forces were also suspected of being behind attacks against journalists.

In April 2017 the government of Quintana Roo offered a public apology to journalist Pedro Canche, who was falsely accused by state authorities of sabotage and was detained for nine months in prison. In May the PGR detained a police officer, Tila Patricia Leon, and a former judge, Javier Ruiz, for undermining Canche’s freedom of expression through arbitrary detention in retaliation for his critical reporting about state government authorities.
There were no developments in the March 2017 killing of Miroslava Breach, a prominent newspaper correspondent.

In March, two police officers, Luigi Heriberto Bonilla Zavaleta and Jose Francisco Garcia, were sentenced to 25 years in prison for the murder of Moises Sanchez, a newspaper owner and journalist in Veracruz. Sanchez was kidnapped in 2015 and found dead three weeks after his disappearance. The local mayor, accused of ordering the murder, remained a fugitive.

In 2005 journalist Lydia Cacho wrote a book exposing a pedophile ring in Cancun. She was arrested in December 2005 and driven 20 hours to Puebla, during which time police threatened her and forced a gun down her throat. On August 8, a federal court in Quintana Roo upheld the October 2017 decision that found Puebla state police officer Jose Montano Quiroz guilty of torture. In the 2017 sentence, the judge recognized Cacho was tortured psychologically and physically and that the torture inflicted was in retaliation for her reporting.

Between 2012 and June 2018, the National Mechanism to Protect Human Rights Defenders and Journalists received 301 requests for protection for journalists. According to Article 19, there had been 62 requests as of October.

On July 24, Playa Del Carmen-based journalist Ruben Pat became the third journalist killed while under protection of the mechanism. Pat had been arrested, threatened, and allegedly tortured by municipal police in Quintana Roo on June 25, according to the OHCHR. Pat was the second journalist killed from the Seminario Playa news outlet in one month. His colleague Jose Guadalupe Chan Dzib was killed on June 29.

A June joint report from IACHR Special Rapporteur for Freedom of Expression Edison Lanza and UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression David Kaye stated journalists in Mexico lived in a “catastrophic” situation given the number of journalists killed since 2010. The report claimed vast regions of the country were “zones of silence” where exercising freedom of expression was dangerous. Observers noted that journalists were often required to publish messages at the behest of organized criminal groups.

Censorship or Content Restrictions: Human rights groups reported some state and local governments censored the media.
Journalists reported altering their coverage due to a lack of protection from the government, attacks against members of the media and newsrooms, and threats or retributions against their families, among other reasons. There were reports of journalists practicing self-censorship due to threats from criminal groups and government officials, especially in the states of Tamaulipas and Sinaloa.

According to Freedom House’s 2017 *Freedom of the Press* report, the federal government and some state governments used advertising expenditures to influence the editorial policies of media outlets. Article 19 reported in March the government had a strong financial impact and influence on the largest media companies.

**Libel/Slander Laws:** There are no federal criminal laws against defamation, libel, or slander, but there are state criminal laws in eight states. In Guanajuato, Nuevo Leon, Baja California Sur, Nayarit, Michoacan, and Yucatan, the crime of defamation is prosecuted, with penalties ranging from three days to five years in prison, and fines ranging from five to five hundred days of minimum salary for committing defamation or slander, both considered “crimes against honor.” Slander is punishable under the criminal laws of the states of Hidalgo, Guanajuato, Nuevo Leon, Baja California Sur, Sonora, Nayarit, Zacatecas, Colima, Michoacan, Campeche, and Yucatan, with sentences ranging from three months to six years in prison, and monetary fines. Five states have laws that restrict the publishing of political caricatures or “memes.” These laws were seldom applied.

In May the Supreme Court struck down a law in the state of Nayarit penalizing slander. The court ruled the law violated freedom of expression.

**Nongovernmental Impact:** Organized criminal groups exercised a grave and increasing influence over media outlets and reporters, threatening individuals who published critical views of crime groups. Concerns persisted about the use of physical violence by organized criminal groups in retaliation for information posted online, which exposed journalists, bloggers, and social media users to the same level of violence faced by traditional journalists.

**Internet Freedom**

The government did not restrict or disrupt access to the internet or block or filter online content. Freedom House’s 2017 *Freedom on the Net* report categorized the country’s internet as partly free, noting concerns about illegal surveillance practices in the country and violence against online reporters.
NGOs alleged provisions in secondary laws threatened the privacy of internet users by forcing telecommunication companies to retain data for two years, providing real-time geolocation data to police, and allowing authorities to obtain metadata from private communications companies without a court order. While the Supreme Court upheld those mechanisms, it noted the need for authorities to obtain a judicial warrant to access users’ metadata.

There were no developments in the criminal investigation the government stated in 2017 that it had opened to determine whether prominent journalists, human rights defenders, and anticorruption activists were subjected to illegal surveillance via a sophisticated surveillance program, “Pegasus.” PGR officials acknowledged purchasing Pegasus but claimed to have used it only to monitor criminals. In May a Mexico City district judge ordered the victims’ evidence be accepted in the PGR’s ongoing investigation. According to a November report by the Citizen Lab at the University of Toronto, 24 individuals were targeted with Pegasus spyware.

According to the International Telecommunication Union, 64 percent of the population used the internet in 2017.

**Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

**b. Freedoms of Peaceful Assembly and Association**

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights. There were some reports of security forces using excessive force against demonstrators. Twelve states have laws that restrict public demonstrations.

**c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

**d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.
The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

The government and press reports noted a marked increase in refugee and asylum applications during the year. According to UNHCR statistics, there were 9,900 asylum applications during the first half of the year, compared with a total of 14,596 applications in all of 2017.

At the Iztapalapa detention center near Mexico City, the Twenty-First Century detention center in Chiapas, and other detention facilities, men were separated from women and children, and there were special living quarters for LGBTI individuals. Migrants had access to medical, psychological, and dental services, and the Iztapalapa center had agreements with local hospitals to care for any urgent cases free of charge. Individuals from countries with consular representation also had access to consular services. Commission to Assist Refugees (COMAR) and CNDH representatives visited daily, and other established civil society groups were able to visit the detention facilities on specific days and hours. Victims of trafficking and other crimes were housed in specially designated shelters. Human rights pamphlets were available in many different languages. In addition approximately 35 centers cooperated with UNHCR and allowed it to display posters and provide other information on how to access asylum for those in need of international protection.

Abuse of Migrants, Refugees, and Stateless Persons: The press and NGOs reported victimization of migrants by criminal groups and in some cases by police, immigration officers, and customs officials. Government and civil society sources reported the Central American gang presence spread farther into the country and threatened migrants who had fled the same gangs in their home countries. An August 2017 report by the independent INM Citizens’ Council found incidents in which immigration agents had been known to threaten and abuse migrants to force them to accept voluntary deportation and discourage them from seeking asylum. The council team visited 17 detention centers across the country and reported threats, violence, and excessive force against undocumented migrants. The INM responded to these allegations by asserting it treated all migrants with “absolute respect.”
There were media reports that criminal groups kidnapped undocumented migrants to extort money from migrants’ relatives or force them into committing criminal acts on their behalf.

A November 2017 Amnesty International report highlighted the dangers Central American LGBTI migrants faced in Mexico. Citing UNHCR data, the report stated two-thirds of LGBTI migrants from El Salvador, Guatemala, and Honduras who applied for refugee status reported having been victims of sexual violence in Mexico.

According to a July 2017 report from the NGO Washington Office on Latin America, of the 5,824 reported crimes against migrants that occurred in the states of Chiapas, Oaxaca, Tabasco, Sonora, Coahuila, and at the federal level, 99 percent of the crimes were unresolved.

In-country Movement: There were numerous instances of armed groups limiting the movements of migrants, including by kidnappings and homicides.

Internally Displaced Persons (IDPs)

The NGO Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH) attributed the displacement of 10,947 people in 2018 to violence by government forces against civilians in the states of Chiapas, Oaxaca, and Sinaloa. Land conflicts, social and ethnic violence, local political disputes, religiously motivated violence, extractive industry operations, and natural disasters were other causes. The CMDPDH found 74 percent of displaced persons in 2017 came from the states of Chiapas, Guerrero, and Sinaloa. The government, in conjunction with international organizations, made efforts to promote the safe, voluntary return, resettlement, or local integration of IDPs.

During an October 2017 border dispute between two municipalities in the state of Chiapas, 5,323 Tzotziles indigenous individuals were displaced. Violence between the communities resulted in women, children, and the elderly abandoning their homes. By January, 3,858 had returned, and the rest remained in shelters.

Protection of Refugees

Access to Asylum: The law provides for granting asylum or refugee status and complementary protection, and the government has an established procedure for determining refugee status and providing protection to refugees. At the end of
2017, the Commission to Assist Refugees (COMAR) had received 14,596 petitions, of which 2,400 were abandoned, 7,719 were pending, and 4,475 were resolved. The number of applicants withdrawing from the process dropped to 16 percent during the year, down from 36 percent in 2014. The refusal rate decreased from 61 percent to 37 percent over that same period. NGOs reported bribes sometimes influenced the adjudication of asylum petitions and requests for transit visas.

The government worked with UNHCR to improve access to asylum and the asylum procedure, reception conditions for vulnerable migrants and asylum seekers, and integration (access to school and work) for those approved for refugee and complementary protection status. In October, the government announced the “You Are at Home” (‘Estas en tu casa”) program to address the flow of migrants in so-called caravans from Central America transiting the country to seek asylum in the United States. The program offered migrants the opportunity to stay legally in the country with access to health care, employment, and education for children. Press reports indicated that 546 migrants had registered for the program as of November 11.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government through free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: The July 1 presidential, legislative, gubernatorial, and other local elections were considered by international observers to have been generally free and fair with only minor reports of irregularities. Local commentators pointed to the electoral authorities’ quick and transparent publishing of results as increasing citizen trust in the electoral and democratic system as a whole.

During the electoral season (September 2017 to June 28), 48 candidates were killed. In Guerrero 14 candidates were killed, followed by five in Puebla. Of the victims, 12 were members of the Institutional Revolutionary Party, 10 belonged to the Party of the Democratic Revolution, seven to the National Regeneration Movement, six to the National Action Party, five to the Citizens’ Movement, two to the Ecologist Green Party of Mexico, one each to the Social Encounter Party and the Labor Party, and three of the victims did not have a party affiliation. As of July
the killings resulted in just one arrest, and none resulted in convictions. In comparison with the 2012 elections, there were 10 times more killings of candidates in 2018.

**Participation of Women and Minorities:** No laws limit participation of women or members of minorities in the political process, and they did participate. As of September women held 49 percent of 128 senate seats and 48 percent of 500 deputies’ seats. The law provides for the right of indigenous persons to elect representatives to local office according to “uses and customs” law (See “Indigenous Peoples”) rather than federal and state electoral law.

On September 8, the Chiapas Electoral and Citizen Participation Institute (IEPC) reported 36 women elected to political office in Chiapas resigned so that men could take their places. IEPC claimed the women were forced to give up their positions as part of a premeditated strategy to install men in office. The president of the National Electoral Institute, Lorenzo Cordova, stated the replacement of successful female candidates with men was “unacceptable in a democratic context” and that “it constitutes regression on the principle of gender parity and inclusion.”

**Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the government did not enforce the law effectively. There were numerous reports of government corruption during the year. Corruption at the most basic level involved paying bribes for routine services or in lieu of fines to administrative officials or security forces. More sophisticated and less apparent forms of corruption included funneling funds to elected officials and political parties by overpaying for goods and services.

Although by law elected officials enjoy immunity from prosecution while holding public office, state and federal legislatures have the authority to waive an official’s immunity. As of November, 17 of the 32 states followed this legal procedure to strip immunity.

By law all applicants for federal law enforcement jobs (and other sensitive positions) must pass an initial law enforcement vetting process and be recleared every two years. According to the Interior Ministry and the National Center of Certification and Accreditation, most active police officers at the national, state, and municipal levels underwent at least initial vetting. The press and NGOs reported that some police officers who failed vetting remained on duty.
The CNDH reported that some police officers, particularly at the state and local level, were involved in kidnapping, extortion, and providing protection for, or acting directly on behalf of, organized crime and drug traffickers.

In July 2017 the National Anticorruption System entered into force, but pending state legislation and lagging federal and state appointments prevented the system from being fully operational. The law gives autonomy to federal administrative courts to investigate and sanction administrative acts of corruption, establishes harsher penalties for government officials convicted of corruption, provides the Superior Audit Office with real-time auditing authority, and establishes an oversight commission with civil society participation. A key feature of the system is the creation of an independent anticorruption prosecutor and court. The Senate had yet to appoint the special prosecutor at year’s end.

**Corruption:** Authorities opened federal and state corruption investigations against former Veracruz governor Flavino Rios. In addition, former Quintana Roo governor Roberto Borge was extradited from Panama and detained pending trial on money-laundering charges. In October former Veracruz governor Javier Duarte agreed to a plea deal on charges of money laundering in one of the highest-profile recent corruption cases. As of November nearly 20 former governors had been sentenced, faced corruption charges, or were under formal investigation.

**Financial Disclosure:** The law requires all federal and state-level appointed or elected officials to provide income and asset disclosure, statements of any potential conflicts of interests, and tax returns. The Ministry of Public Administration monitors disclosures with support from each agency. Regulations require disclosures at the beginning and end of employment, as well as annual updates. The law requires declarations be made publicly available unless an official petitions for a waiver to keep his or her file private. Criminal or administrative sanctions apply for abuses.

**Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were mostly cooperative and responsive to their views, and the president or cabinet officials met with human rights organizations such as the OHCHR, IACHR, and CNDH. Some NGOs alleged that
individuals who organized campaigns to discredit human rights defenders sometimes acted with tacit support from officials in government. Between 2012 and June 2018, the National Mechanism to Protect Human Rights Defenders and Journalists received 396 requests for protection of human rights defenders.

**Government Human Rights Bodies:** The CNDH is a semiautonomous federal agency created by the government and funded by the legislature to monitor and act on human rights violations and abuses. It may call on government authorities to impose administrative sanctions or pursue criminal charges against officials, but it is not authorized to impose penalties or legal sanctions. If the relevant authority accepts a CNDH recommendation, the CNDH is required to follow up with the authority to verify it is carrying out the recommendation. The CNDH sends a request to the authority asking for evidence of its compliance and includes this follow-up information in its annual report. When authorities fail to accept a recommendation, the CNDH makes that failure known publicly, and it may exercise its power to call government authorities who refuse to accept or enforce its recommendations before the Senate.

All states have their own human rights commission. The state commissions are funded by the state legislatures and are semiautonomous. The state commissions did not have uniform reporting requirements, making it difficult to compare state data and therefore to compile nationwide statistics. The CNDH may take on cases from state-level commissions if it receives a complaint that the state commission has not adequately investigated the case.

**Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

**Women**

**Rape and Domestic Violence:** Federal law criminalizes rape of men or women, including spousal rape, and conviction carries penalties of up to 20 years’ imprisonment. Spousal rape is criminalized in 24 states.

The federal penal code prohibits domestic violence and stipulates penalties for conviction of between six months’ and four years’ imprisonment. Of the states, 29 stipulate similar penalties, although in practice sentences were often more lenient. Federal law does not criminalize spousal abuse. State and municipal laws addressing domestic violence largely failed to meet the required federal standards and often were unenforced.
Killing a woman because of the victim’s gender (femicide) is a federal offense punishable by 40 to 60 years in prison. It is also a criminal offense in all states. The PGR’s Special Prosecutor’s Office for Violence against Women and Trafficking in Persons is responsible for leading government programs to combat domestic violence and prosecuting federal human trafficking cases involving three or fewer suspects. The office had 30 prosecutors in total, of whom nine were exclusively dedicated to federal cases of violence against women.

In addition to shelters, there were women’s justice centers that provided services including legal services and protection; however, the number of cases far surpassed institutional capacity.

According to Interior Ministry statistics, in the first six months of the year prosecutors and attorneys general opened 387 investigations into 402 cases of femicide throughout the country. Statistics come from state-level reports that often conflate femicides with all killings of women. The states with the highest number of femicides in 2017 were Mexico, Veracruz, Nueva Leon, Chihuahua, Sinaloa, and Guerrero.

Sexual Harassment: Federal labor law prohibits sexual harassment and provides for fines from 250 to 5,000 times the minimum daily wage. Of the states, 16 criminalize sexual harassment, and all states have provisions for punishment when the perpetrator is in a position of power. According to the National Women’s Institute, the federal institution charged with directing national policy on equal opportunity for men and women, sexual harassment in the workplace was a significant problem.

On August 1, the Yucatan state congress approved a bill to criminalize the distribution of “revenge pornography” and “sextortion.” Individuals may be prosecuted if they publish or distribute intimate images, audio, videos, or texts without the consent of the other party. The sentence ranges from six months to four years in prison.

Coercion in Population Control: There were no confirmed reports of coerced abortion or involuntary sterilization. There were reports that public health doctors occasionally discouraged women from giving birth to HIV-infected babies.

Discrimination: The law provides women the same legal status and rights as men and “equal pay for equal work performed in equal jobs, hours of work, and conditions of efficiency.” Women tended to earn substantially less than men did.
for the same work. Women were more likely to experience discrimination in wages, working hours, and benefits.

**Children**

**Birth Registration:** Children derived citizenship both by birth within the country’s territory and from their parents. Citizens generally registered the births of newborns with local authorities. Failure to register births could result in the denial of public services such as education or health care.

**Child Abuse:** There were numerous reports of child abuse. The National Program for the Integral Protection of Children and Adolescents, mandated by law, is responsible for coordinating the protection of children’s rights at all levels of government.

**Early and Forced Marriage:** The legal minimum marriage age is 18. Enforcement, however, was inconsistent across the states. Some civil codes permit girls to marry at 14 and boys at 16 with parental consent. With a judge’s consent, children may marry at younger ages.

According to UNICEF, Chiapas, Guerrero, and Oaxaca were the states with the highest rates of underage marriages.

**Sexual Exploitation of Children:** The law prohibits the commercial sexual exploitation of children, and authorities generally enforced the law. Nonetheless, NGOs reported sexual exploitation of minors, as well as child sex tourism in resort towns and northern border areas.

Statutory rape is a federal crime. If an adult is convicted of having sexual relations with a minor, the penalty is between three months and 30 years’ imprisonment depending on the age of the victim. Conviction for selling, distributing, or promoting pornography to a minor stipulates a prison term of six months to five years. For involving minors in acts of sexual exhibitionism or the production, facilitation, reproduction, distribution, sale, and purchase of child pornography, the law mandates seven to 12 years’ imprisonment and a fine.

Perpetrators convicted of promoting, publicizing, or facilitating sexual tourism involving minors face seven to 12 years’ imprisonment and a fine. Conviction for sexual exploitation of a minor carries an eight- to 15-year prison sentence and a fine.
Institutionalized Children: Civil society groups expressed concerns about abuse of children with mental and physical disabilities in orphanages, migrant centers, and care facilities.

In April, Disability Rights International documented a case at the institution Hogares de la Caridad in Guadalajara, where a 17-year-old who suffered from autism and cerebral palsy was found taped in a blanket around the torso, allegedly to prevent self-harm.


Anti-Semitism

The 67,000-person Jewish community experienced low levels of anti-Semitism, but there were reports of some anti-Semitic expressions through social media. While an Anti-Defamation League report described an increase in anti-Semitic attitudes in the country from 24 percent of the population in 2014 to 35 percent of the population in 2017, Jewish community representatives reported low levels of anti-Semitic acts and good cooperation with the government and other religious and civil society organizations in addressing rare instances of such acts.

 Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government did not effectively enforce the law. The law requires the Ministry of Health to promote the creation of long-term institutions for persons with disabilities in distress, and the Ministry of Social Development must establish specialized institutions to care for, protect, and house poor, neglected, or marginalized persons with disabilities. NGOs reported authorities had not implemented programs for community integration. NGOs
reported no changes in the mental health system to create community services nor any efforts by authorities to have independent experts monitor human rights violations in psychiatric institutions. Public buildings and facilities often did not comply with the law requiring access for persons with disabilities. The education system provided special education for students with disabilities nationwide. Children with disabilities attended school at a lower rate than those without disabilities.

Abuses in mental health institutions and care facilities, including those for children, were a problem. Abuses of persons with disabilities included the use of physical and chemical restraints, physical and sexual abuse, trafficking, forced labor, disappearance, and the illegal adoption of institutionalized children. Institutionalized persons with disabilities often lacked adequate medical care and rehabilitation services, privacy, and clothing; they often ate, slept, and bathed in unhygienic conditions. They were vulnerable to abuse from staff members, other patients, or guests at facilities where there was inadequate supervision. Documentation supporting the person’s identity and origin was lacking. Access to justice was limited.

Voting centers for federal elections were generally accessible for persons with disabilities, and ballots were available with a braille overlay for federal elections in Mexico City, but these services were inconsistently available for local elections elsewhere in the country.

**Indigenous People**

The constitution provides all indigenous peoples the right to self-determination, autonomy, and education. Conflicts arose from interpretation of the self-governing “uses and customs” laws used by indigenous communities. Uses and customs laws apply traditional practices to resolve disputes, choose local officials, and collect taxes, with limited federal or state government involvement. Communities and NGOs representing indigenous groups reported that the government often failed to consult indigenous communities adequately when making decisions regarding development projects intended to exploit energy, minerals, timber, and other natural resources on indigenous lands. The CNDH maintained a formal human rights program to inform and assist members of indigenous communities.

The CNDH reported indigenous women were among the most vulnerable groups in society. They often experienced racism and discrimination and were often victims
of violence. Indigenous persons generally had limited access to health-care and education services.

In August, UN Special Rapporteur on Indigenous Rights Victoria Tauli published her report on Mexico, concluding that “current development policies, which are based on megaprojects (in mining, energy, tourism, real estate, and agriculture, among other areas) pose a major challenge to indigenous peoples’ enjoyment of human rights. Lack of self-determination and prior, free, informed, and culturally appropriate consultation are compounded by land conflicts, forced displacement, and the criminalization of and violence against indigenous peoples who defend their rights.”

On January 7, violent clashes involving gunmen, an indigenous community police force, and state police led to the death of 11 persons in Guerrero who had campaigned against a hydroelectric project in the region for more than a decade (see section 1.a.).

On February 12, three members of the Committee for the Defense of Indigenous Rights in Oaxaca were killed after participating in a meeting with government authorities, according to Oaxacan NGOs and press reports. On July 17, the organization’s regional coordinator, Abraham Hernandez Gonzalez, was kidnapped and killed by an armed group.

There were no developments in the April 2017 killing of Luis “Lucas” Gutierrez in the municipality of Madera, Chihuahua. He was an indigenous rights activist and a member of a civil society group called the Civil Resistance Group.

In 2017, 15 environmental activists were killed, compared with three in 2016, according to a Global Witness Report. A majority of the victims came from indigenous communities. Since 2016, six ecologists in the indigenous territory of Coloradas de la Virgen, Chihuahua were killed in fighting over logging. Mining was also a cause of violence.

Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity

The law prohibits discrimination against LGBTI individuals.
A Mexico City municipal law provides increased penalties for hate crimes based on sexual orientation and gender identity. Civil society groups claimed police routinely subjected LGBTI persons to mistreatment while in custody.

Discrimination based on sexual orientation and gender identity was prevalent, despite a gradual increase in public tolerance of LGBTI individuals, according to public opinion surveys. There were reports the government did not always investigate and punish those complicit in abuses, especially outside Mexico City.

On May 17, the CNDH called for a halt of discrimination against LGBTI persons.

In November 2017 the NGO Transgender Europe documented 56 cases of reported killings of transgender individuals in the country. According to the OHCHR, in the first eight months of the year, there were 17 hate crime homicides in Veracruz, committed against nine transgender women and eight gay men.

On August 5, an 18-year-old man was beaten to death allegedly by a group of 10 taxi drivers who worked at a taxi stand outside a gay bar in San Luis Potosi. Local LGBTI human right defenders claimed the killing was a hate crime because the victim was attacked due to his sexual orientation; the president of the San Luis Potosi State Commission for Human Rights agreed. Advocates also argued negligence in investigating the case due to homophobia in police ranks. As of October no one had been arrested in connection with the killing.

Other Societal Violence or Discrimination

The Catholic Multimedia Center reported criminal groups targeted priests and other religious leaders in some parts of the country and subjected them to extortion, death threats, and intimidation. As of October, the center reported seven priests killed. There were two attacks with explosives in the diocese of Matamoros, Tamaulipas--one in the Cathedral of Matamoros and another in the church of Our Lady of Refuge. No victims were reported in either attack.

According to a 2017 INEGI survey, one in five citizens was a victim of discrimination in 2017. The reasons listed for discrimination included appearance, skin tone, indigenous background, gender, age, or disability. The survey found that in the last five years, nearly 20 million persons were denied medical services, government support, and financial services because of discrimination. According to the CNDH, only 10 percent reported this discrimination to an authority.
Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join unions, to bargain collectively, and to strike in both the public and private sectors; however, conflicting law, regulations, and practice restricted these rights.

The law requires a minimum of 20 workers to form a union. To receive government recognition, unions must file for registration with the appropriate conciliation and arbitration board (CAB) or the Ministry of Labor and Social Welfare. For the union to be able to function legally, its leadership must also register with the appropriate CAB or the ministry. CABs operated under a tripartite system with government, worker, and employer representatives. Outside observers raised concerns that the boards did not adequately provide for inclusive worker representation and often perpetuated a bias against independent unions, in part due to the prevalence of representatives from “protection” unions on the boards. Protection unions and “protection contracts”--collective bargaining agreements signed by employers and these unions to circumvent meaningful negotiations and preclude labor disputes--were common in all sectors.

By law a union may call for a strike or bargain collectively in accordance with its own bylaws. Before a strike may be considered legal, however, a union must file a “notice to strike” with the appropriate CAB, which may find that the strike is “nonexistent” or, in other words, it may not proceed legally. The law prohibits employers from intervening in union affairs or interfering with union activities, including through implicit or explicit reprisals against workers. The law allows for reinstatement of workers if the CAB finds the employer fired the worker unfairly and the worker requests reinstatement; however, the law also provides for broad exemptions for employers from such reinstatement, including employees of confidence or workers who have been in the job for less than a year.

The government, including the CABs, did not consistently protect worker rights. The government’s common failure to enforce labor and other laws left workers with little recourse for violations of freedom of association, poor working conditions, and other labor problems. The CABs’ frequent failure to impartially and transparently administer and oversee procedures related to union activity, such as union elections and strikes, undermined worker efforts to exercise freely their rights to freedom of association and collective bargaining.
February 2017 labor justice revisions to the constitution replace the CABs with independent judicial bodies, which are intended to streamline the labor justice process, but require implementing legislation to reform federal labor law. Under the terms of the constitutional reform, CABs would continue to administer new and pending labor disputes until the judicial bodies are operational.

Penalties for violations of freedom of association and collective bargaining laws were rarely applied and were insufficient to deter violations. Administrative and judicial procedures were subject to lengthy delays and appeals.

Workers exercised their rights to freedom of association and collective bargaining with difficulty. The process for registration of unions was politicized, and according to union organizers, the government, including the CABs, frequently used the process to reward political allies or punish political opponents. For example, the government rejected registration applications for locals of independent unions, and for unions, based on technicalities.

In September the Senate ratified the International Labor Organization (ILO) Convention 98 on collective bargaining. By ratifying the convention, the government subjects itself to the convention’s oversight and reporting procedures. Ratification also contributes, according to the independent unions, to ensuring the institutions established as a result of the labor justice reform are, in law and practice, independent, transparent, objective, and impartial, with workers having recourse to the ILO’s oversight bodies to complain of any failure.

According to several NGOs and unions, many workers faced violence and intimidation around bargaining-rights elections perpetrated by protection union leaders and employers supporting them, as well as other workers, union leaders, and vigilantes hired by a company to enforce a preference for a particular union. Some employers attempted to influence bargaining-rights elections through the illegal hiring of pseudo employees immediately prior to the election to vote for the company-controlled union. CABs were widely alleged to administer these elections with a bias against new, independent unions, resulting in delays and other procedural obstacles that impacted the results and undermined workers’ right to organize.

Other intimidating and manipulative practices were common, including dismissal of workers for labor activism. For example, a garment factory in Morelos failed to halt workplace sexual harassment and sexual violence and instead fired the whistleblowers who reported the problem to management.
b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, but the government did not effectively enforce the law. While penalties for conviction of forced labor violations range from five to 30 years’ imprisonment, very few cases reached the court system or were successfully prosecuted.

Forced labor persisted in the industrial and agricultural sectors, especially in the production of chili peppers and tomatoes, as well as in the informal sector. Women and children were subject to domestic servitude. Women, children, indigenous persons, and migrants (including men, women, and children) were the most vulnerable to forced labor. In July authorities rescued 50 agricultural workers on three commercial tomato farms in Coahuila. Authorities in Coahuila freed an additional 25 agricultural workers—including nine children—from a chili pepper and tomato farm in August. In both cases the forced labor victims reportedly lived in unsanitary conditions, worked excessive hours under the threat of dismissal, and received subminimum wage payments or no payment at all.

Day laborers and their children were the primary victims of forced and child labor in the agricultural sector. In 2016 INEGI reported 44 percent (2,437,150) of persons working in agriculture were day laborers. Of the day laborers, 33 percent received no financial compensation for their work. Only 3 percent of agricultural day laborers had a formal written contract, 4 percent had access to health services through their employment, and 7 percent received vacation days or Christmas bonuses—all benefits mandated by federal labor law.

Indigenous persons in isolated regions reported incidents of forced labor, in which cartel members forced them to perform illicit activities or face death. Minors were recruited or forced by cartels to traffic persons, drugs, or other goods across the border.

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The constitution prohibits children younger than age 15 from working and allows those ages 15 to 17 to work no more than six daytime hours in nonhazardous conditions daily, and only with parental permission. The law requires children
younger than 18 to have a medical certificate to work. The minimum age for hazardous work, including all work in the agricultural sector, is 18. The law prohibits minors from working in a broad list of hazardous and unhealthy occupations.

The government was reasonably effective in enforcing child labor laws in large and medium-sized companies, especially in the factory (maquiladora) sector and other industries under federal jurisdiction. Enforcement was inadequate in many small companies and in agriculture and construction, and nearly absent in the informal sector, in which most child laborers worked.

At the federal level, the Ministry of Social Development, PGR, and National System for Integral Family Development share responsibility for inspections to enforce child labor laws and to intervene in cases in which employers violated such laws. The Ministry of Labor is responsible for carrying out child labor inspections. Penalties for violations range from 16,780 pesos ($840) to 335,850 pesos ($16,800) but were not sufficiently enforced to deter violations.

According to a 2017 INEGI survey, the number of employed children ages five to 17 was 3.2 million, or approximately 11 percent of children in the country. This represented a decrease from 12.4 percent of children in the 2015 INEGI survey. Of these children, 2.1 million, or 7.1 percent of the population ages five to 17, were under the minimum age of work or worked under conditions that violated federal labor laws, such as performing hazardous work. Child labor was most common in the agricultural sector; children worked in the harvest of beans, chili peppers, coffee, cucumbers, eggplants, melons, onions, tobacco, and tomatoes, as well as in the production of illicit crops such as opium poppies. Other sectors with significant child labor included services, retail sales, manufacturing, and construction.

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination with respect to employment or occupation on the basis of “race, nationality, age, religion, sex, political opinion, social status, handicap (or challenged capacity), economic status, health, pregnancy, language, sexual preference, or marital status.” The government did not effectively enforce the law or regulations. According to a 2017 INEGI survey, 12 percent of Mexican women had been illegally asked to take a pregnancy test as a prerequisite to being hired. Job announcements specifying desired gender, marital status, and parental status were common.
INEGI reported in 2017 that 23 percent of working women experienced violence in the workplace within the past 12 months, and 6 percent experienced sexual violence.

Penalties for violations of the law included administrative remedies, such as reinstatement, payment of back wages, and fines (often calculated based on the employee’s wages), and were not generally considered sufficient to deter violations. Discrimination in employment or occupation occurred against women, indigenous groups, persons with disabilities, LGBTI individuals, and migrant workers.

e. Acceptable Conditions of Work

The general minimum wage was below the official poverty line. Most formal-sector workers received between one and three times the minimum wage. The tripartite National Minimum Wage Commission, whose labor representatives largely represented protection unions and their interests, is responsible for establishing minimum salaries but continued to block increases that kept pace with inflation.

The law sets six eight-hour days and 48 hours per week as the legal workweek. Any work over eight hours in a day is considered overtime, for which a worker is to receive double pay. After accumulating nine hours of overtime in a week, a worker earns triple the hourly wage. The law prohibits compulsory overtime. The law provides for eight paid public holidays and one week of paid annual leave after completing one year of work. The law requires employers to observe occupational safety and health regulations, issued jointly by the Ministry of Labor and Social Welfare and the Institute for Social Security. Legally mandated joint management and labor committees set standards and are responsible for overseeing workplace standards in plants and offices. Individual employees or unions may complain directly to inspectors or safety and health officials. By law workers may remove themselves from situations that endanger health or safety without jeopardy to their employment.

The Ministry of Labor is responsible for enforcing labor laws and inspecting workplaces. Neither the number of labor inspections nor the penalties for violations of labor law were sufficient to secure compliance with labor law. For example, in June, seven workers disappeared at a mine in Chihuahua when a dam holding liquid waste collapsed. Through its DECLARALAB self-evaluation tool,
the ministry provided technical assistance to almost 4,000 registered workplaces to help them meet occupational safety and health regulations.

According to labor rights NGOs, employers in all sectors sometimes used the illegal “hours bank” approach--requiring long hours when the workload is heavy and cutting hours when it is light--to avoid compensating workers for overtime. This was a common practice in the maquiladora sector, in which employers forced workers to take leave at low moments in the production cycle and obliged them to work in peak seasons, including the Christmas holiday period, without the corresponding triple pay mandated by law for voluntary overtime on national holidays. Additionally, many companies evaded taxes and social security payments by employing workers informally or by submitting falsified payroll records to the Mexican Social Security Institute. INEGI estimated 57 percent of the workforce was engaged in the informal economy during the year.

Observers from grassroots labor rights groups, international NGOs, and multinational apparel brands reported that employers in export-oriented supply chains were increasingly using hiring methods that lessened job security. For example, manufacturers commonly hired workers on one- to three-month contracts, and then waited a period of days before rehiring them on another short-term contract, to avoid paying severance and to prevent workers from accruing seniority. This practice violates federal labor law and restricts worker’s rights to freedom of association and collective bargaining. Observers noted it also increased the likelihood of work-related illness and injury. Outsourcing practices made it difficult for workers to identify their legally registered employer, limiting their ability to seek redress of labor grievances.

Private recruitment agencies and individual recruiters violated the rights of temporary migrant workers recruited in the country to work abroad, primarily in the United States. Although the law requires these agencies to be registered, they often were unregistered. There were also reports that registered agencies defrauded workers with impunity. Some temporary migrant workers were regularly charged illegal recruitment fees. The Labor Ministry’s registry was outdated, inaccurate, and limited in scope. Although the government did not actively monitor or control the recruitment process, it reportedly was responsive in addressing complaints.

The situation of agricultural workers remained particularly precarious, with similar patterns of exploitation throughout the sector. Labor recruiters enticed families to work during harvests with verbal promises of decent wages and a good standard of
living. Rather than pay them daily wages once a week, as mandated by law, day laborers had to meet certain harvest quotas to receive the promised wage. Wages may be illegally withheld until the end of the harvest to ensure the workers do not leave, and civil society organizations alleged workers were prohibited from leaving by threats of violence or by nonpayment of wages. Workers had to buy food and other items at the company store at high markups, at times leaving them with no money at the end of the harvest after settling debts. Civil society groups reported families living in inhuman conditions, with inadequate and cramped housing, no access to clean water or bathrooms, insufficient food, and without medical care. With no access to schools or childcare, many workers brought their children to work in the fields.

News reports indicated there were poor working conditions in some maquiladoras. These included low wages, contentious labor management, long work hours, unjustified dismissals, a lack of social security benefits, unsafe workplaces, and no freedom of association. Many women working in the industry reported suffering some form of abuse. Most maquiladoras hired employees through outsourcing with few social benefits.

INDEX, the association of more than 250 factories in Ciudad Juarez, signed an agreement in March to prevent and eradicate violence against women with the Chihuahua Institute of Women and the National Commission.
Tab. 4.
Mexico: Societal norms on gender identity expressions, including in indigenous communities (2016-May 2018)

1. Overview


[in Mexico, … the confluence of two cultures – Spanish and indigenous – that idealized the hyper-masculinity of the warrior has produced a popular culture that is particularly hostile to any sign of the feminine in a man, and, to a lesser degree, of the masculine in a woman. Spaniards and Aztecs alike were [draconian in their treatment of sexual nonconformists. (Reding 2003, 58)

In correspondence with the Research Directorate, an academic at the National Autonomous University of Mexico (Universidad Nacional Autónoma de Mexico, UNAM), who is an independent researcher and has published on sexual diversity, stated that in Mexico, [translation] "children are taught that they must adhere to characteristics and behaviours according to their biological sex" and that any deviation from this norm is "pointed out or even punished" (Academic 7 May 2018). According to the same source, the notion that
[translation] "that which is masculine is superior to that which is feminine continues to be socially important" (Academic 7 May 2018).

2. Societal Norms on Gender Identity Expressions

Sources indicated that even though anti-discrimination legislation exists for sexual minorities (Academic 7 May 2018; Researcher 3 May 2018; Centro de Apoyo a las Identidades Trans, A. C. 6 May 2018), including in the areas of health care, education and the workplace, "the reality is different" (Researcher 3 May 2018). According to sources, homophobia is prevalent across Mexico (Researcher 3 May 2018; Academic 7 May 2018), including in the major cities of the country, such as Mexico City (Academic 7 May 2018). According to the academic, homophobia is translated into acts against those who are gender non-conforming, and these acts range from insults and lewd comments to physical violence and murders, including of minors (Academic 7 May 2018). The same source indicated that

[translation]

in Mexico, gender expression is taken as a point of reference for a person's sexual orientation. As such, women who are perceived to be too masculine or men who are perceived to be too feminine are more likely to be victims of violence and discrimination. (Academic 7 May 2018)

The academic explained that, in contrast, if a man or a woman of a diverse sexual orientation shows traits socially assigned to their gender, they are more tolerated (Academic 7 May 2018).

A global survey [4] conducted by the International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA) on attitudes on "sexual, gender and sex minorities" provides the following results for Mexico:

When asked whether equal rights and protections should be applied to everyone, including people who dress, act or identify as one sex although they were born as another, respondents indicated the following:

<table>
<thead>
<tr>
<th>Number of Respondents</th>
<th>Percentage - weighted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>772</td>
</tr>
<tr>
<td>Somewhat agree</td>
<td>179</td>
</tr>
<tr>
<td>Neither agree or disagree</td>
<td>243</td>
</tr>
<tr>
<td>Somewhat disagree</td>
<td>51</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>110</td>
</tr>
<tr>
<td>Total</td>
<td>1355</td>
</tr>
</tbody>
</table>

When asked if one's neighbour is believed to be one sex, but dresses, acts or identify as another, respondents indicated that they would:

<table>
<thead>
<tr>
<th>Number of Respondents</th>
<th>Percentage - weighted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Affirm and support them</td>
<td>267</td>
</tr>
<tr>
<td>Accept them</td>
<td>845</td>
</tr>
<tr>
<td>Spend less time with them</td>
<td>84</td>
</tr>
<tr>
<td>Publicly distance oneself</td>
<td>73</td>
</tr>
<tr>
<td>Try to change them</td>
<td>99</td>
</tr>
<tr>
<td>Total</td>
<td>1368</td>
</tr>
</tbody>
</table>

When asked whether adults who dress, act or identify as one sex although they were born as another should be granted full legal recognition of the identity they declare, respondents indicated the following:
<table>
<thead>
<tr>
<th></th>
<th>Number of Respondents</th>
<th>Percentage - weighted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>560</td>
<td>43%</td>
</tr>
<tr>
<td>Somewhat agree</td>
<td>249</td>
<td>18%</td>
</tr>
<tr>
<td>Neither agree or disagree</td>
<td>368</td>
<td>26%</td>
</tr>
<tr>
<td>Somewhat disagree</td>
<td>74</td>
<td>6%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>114</td>
<td>7%</td>
</tr>
<tr>
<td>Total</td>
<td>1365</td>
<td></td>
</tr>
</tbody>
</table>

When asked whether it is possible to respect one’s own culture and be accepting of people who dress, act or identify as one sex although they were born as another, respondents indicated the following:

<table>
<thead>
<tr>
<th></th>
<th>Number of Respondents</th>
<th>Percentage - weighted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>675</td>
<td>52%</td>
</tr>
<tr>
<td>Somewhat agree</td>
<td>207</td>
<td>16%</td>
</tr>
<tr>
<td>Neither agree or disagree</td>
<td>295</td>
<td>20%</td>
</tr>
<tr>
<td>Somewhat disagree</td>
<td>66</td>
<td>5%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>120</td>
<td>7%</td>
</tr>
<tr>
<td>Total</td>
<td>1363</td>
<td></td>
</tr>
</tbody>
</table>

When asked whether it is possible to respect one’s own religion and be accepting of people who dress, act or identify as one sex although they were born as another, respondents indicated the following:

<table>
<thead>
<tr>
<th></th>
<th>Number of Respondents</th>
<th>Percentage - weighted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Strongly agree</td>
<td>677</td>
<td>51%</td>
</tr>
<tr>
<td>Somewhat agree</td>
<td>215</td>
<td>16%</td>
</tr>
<tr>
<td>Neither agree or disagree</td>
<td>308</td>
<td>20%</td>
</tr>
<tr>
<td>Somewhat disagree</td>
<td>72</td>
<td>5%</td>
</tr>
<tr>
<td>Strongly disagree</td>
<td>116</td>
<td>8%</td>
</tr>
<tr>
<td>Total</td>
<td>1388</td>
<td></td>
</tr>
</tbody>
</table>

(ILGA 2017)

In correspondence with the Research Directorate, the LGBT Coordinator of Legal Support for Human Rights (Asistencia Legal por los Derechos Humanos, ASILEGAL, A. C.) [5] explained that the situation of gender non-conforming individuals in Mexico varies and that experiences of discrimination or violence are aggravated according to other social conditions such as gender, socio-economic status, immigration status, indigenous background, and roles such as being a human rights defender (ASILEGAL, A. C. 6 May 2018).

2.1 Indigenous Communities

In correspondence with the Research Directorate, a researcher from the Mexican National Institute of Public Health (Instituto Nacional de Salud Pública), who has worked on sexual and reproductive health and rights internationally and in Mexico, stated, while speaking on his own behalf, that "classism and racism are very strong in Mexican society, maybe even more than LGBTphobia. That means that indigenous LGBT people will definitely experience more challenges in all spaces" (Researcher 3 May 2018). Other sources similarly indicate that in Mexico, indigenous persons are marginalized (Academic 7 May 2018; ASILEGAL, A. C. 6 May 2018), and that being indigenous in Mexico brings with it a [translation] "series of negative perceptions," and even more if the person is a sexual minority (Academic 7 May 2018). The academic explained that there is [translation] "institutional prejudice" against indigenous persons and there is a lack of knowledge among indigenous persons...
in terms of defending their rights (Academic 7 May 2018). Sources indicate that gender non-conforming indigenous persons may experience [translation] "double discrimination" (Centro de Apoyo a las Identidades Trans, A. C. 6 May 2018; ASILEGAL, A. C. 6 May 2018).

When asked how gender non-conforming individuals are regarded and treated in indigenous communities and whether they face any challenges, the researcher stated that "[i]t depends," and explained that "zapotecs and some groups in Oaxaca, Chiapas and Guerrero are quite open to sexual diversity, but that [this] is not the case in all the communities in those states and in other indigenous groups" (Researcher 3 May 2018). According to the academic, sexual diversity within indigenous communities is a subject that has been scarcely researched and little is known about the situation of sexual minorities within indigenous communities (Academic 7 May 2018). According to ASILEGAL, A. C., it is difficult to generalize the experiences of sexual minorities in indigenous communities, given that there are 68 recognized indigenous communities in Mexico, which vary in population and geography (ASILEGAL, A. C. 6 May 2018). The academic stated, however, that [translation] "within indigenous groups, there are homophobic acts against LGBT men and women, as well as discriminatory notions that sustain the men-women, masculine-feminine binary" (Academic 7 May 2018). The academic stated that, in the case of women, they are subject to acts of rape as a way to [translation] "cure" them from what is considered "unnatural," and in the case of men, they are subject to sexual activities with women in order for them to "become men," while physical violence can occur in other cases (Academic 3 May 2018). According to the academic, when [translation] "correcting" their conduct is not successful, social pressure forces them to leave their communities for the cities (Academic 7 May 2018). The researcher similarly indicated that, while research on this area shows that LGBT indigenous people have to migrate to big cities in order to live "openly," "the problem is the context of small towns and not necessarily culture" (Researcher 3 May 2018). In correspondence with the Research Directorate, the Director General of the Support Centre for Trans Identities (Centro de Apoyo a las Identidades Trans, A. C.) [6] indicated that in the majority of indigenous communities, trans persons are rejected and excluded due to machismo and misogyny, causing them to move to urban areas (Centro de Apoyo a las Identidades Trans, A. C. 6 May 2018). According to the academic, the experiences of indigenous persons who live in cities can be diverse, depending on their motives for moving to the city and whether their families had moved to the city generations ago (Academic 7 May 2018).

2.2 Muxes

Sources indicate that the muxes are considered a "third-gender" (Reuters 12 Sept. 2017; Culture Trip 1 Dec. 2017; Vice Media 26 Nov. 2016). Sources describe muxes to be born biologically as men, who display a feminine identity (Reuters 12 Sept. 2017; Culture Trip 1 Dec. 2017; Vice Media 26 Nov 2016). The Guardian reports, however, that "[b]eing muxe is often confused with being transgender" and that "the muxe identity has more in common with being non-binary [7]" (The Guardian 27 Oct. 2017). An article on muxes published by Vice Media, similarly states that muxes do not "consider themselves cross-dressers or transgender" and that they "identify neither as men nor as women" (Vice Media 26 Nov. 2016). According to the National Public Radio (NPR), a Washington-based multimedia organization, some muxes "are men who live as women, or who identify beyond a single gender" (NPR 5 June 2012).

According to The Guardian, the muxe identity is specific to the Oaxaca region and the indigenous Zapoteca culture (The Guardian 27 Oct. 2017). Agence France-Presse (AFP) reports that, according to Melendre, a civil society organization that advocates for the Zapotec culture, of the 75,000 inhabitants of Juchitán, approximately 5,000 are muxes and that muxes are also present in villages like Niltepec and Ixtepec (AFP 6 Oct. 2017). Reuters reports that, according to residents in Juchitán, there is a muxe in every Juchitán family and that they are known for their "dedication to family" (Reuters 12 Sept. 2017). Sources indicate that muxes are caregivers of their elderly mothers (Reuters 12 Sept. 2017; Culture Trip 1 Dec. 2017; NPR 5 June 2012). Sources indicate that muxes are generally accepted in Juchitán (Reuters 12 Sept. 2017; Centro de Apoyo a las Identidades Trans A. C.; The Guardian 27 Oct. 2017). According to the NPR, in Juchitán, there are some Catholic priests who hold services for muxes (NPR 5 June 2012). The Mexican daily newspaper La Jornada cites Letra S, a Mexico City-based NGO specializing in health and sexuality (Letra S n.d.), as stating that [translation] "muxes are completely adapted in their families" and that mothers are generally more accepting of muxes than the fathers, as a result of machismo (La Jornada 6 June 2013).
Sources indicate, however, that muxes in Juchitán face discrimination (AFP 10 June 2017; Academic 7 May 2018) and can still be subject to violence (Academic 7 May 2018). The Guardian reports that "life outside Juchitán is not always easy" for muxes (The Guardian 27 Oct. 2017). Further information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Support Services

Sources indicate that there are "[v]ery few" organizations in Mexico that provide support for gender non-conforming individuals and that they face financial and resource constraints (Researcher 3 May 2018; ASILEGAL, A. C. 6 May 2018). According to the researcher, "most LGBT organizations in the country work on advocacy or provide HIV services, but there are very few spaces that provide a more comprehensive approach" (Researcher 3 May 2018). The researcher indicated the following organizations that provide support to gender non-conforming individuals: Colectivo 41, in San Miguel de Allende; ProDiana, in Mexico City; Comunidad Metropolitana, A. C., in Monterrey; Vida Plena, in Puebla; and Cohesión de Diversidades para la Sustenabilidad, A. C., in Guadalajara (Researcher 3 May 2018). According to ASILEGAL, A. C., there are various organizations, all in Mexico City, that promote and defend the human rights of sexual minorities, including ASILEGAL, A. C.; Letra S; Centro de Apoyo a las Identidades Trans, A. C.; Fundación Arcoíris, A. C.; El Clóset de Sor Juana, A. C.; Almas Cautivas, A. C.; and Cuenta Conmigo Diversidad Sexual Incluyente, A. C. (ASILEGAL, A. C. 6 May 2018).

The information in the following paragraph was provided by the academic in correspondence with the Research Directorate:

Assistance for indigenous sexual minorities in Mexico [translation] "is a subject that has not received the attention it requires" and it remains "unclear." Many government programs intended for indigenous populations are focused on agricultural activities and, in terms of health care, the focus of the assistance is on reproductive health and birth control. Since indigenous languages are generally not spoken by those responsible for health care programs, indigenous individuals prefer not to solicit help. Indigenous sexual minorities in cities do not receive adequate attention. LGBT organizations have little concern for the indigenous population and their inclusion is not evident. Within the LGBT community, indigenous persons are discriminated against and segregated due to, among others, their poverty, physical traits, way of dressing, and speech manner (Academic 7 May 2018).

For further information about the situation of sexual minorities in Mexico, including state protection and support services, see Response to Information Request MEX105953 of February 2018.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes


[2] According to the Oxford English Dictionary, "marianismo" is defined as a "pattern of behaviour that is regarded as conforming to a traditional or archetypal female role" (Oxford English Dictionary n.d.b).

The sample of the survey was around 116,000 respondents in 75 countries, including Mexico (ILGA Oct. 2017, 8).

ASILEGAL, A. C. is a Mexico City-based NGO that works for the defence and promotion of the human rights of groups in a situation of "vulnerability," including indigenous communities, youth, women and sexual minorities (ASILEGAL, A. C. n.d.). ASILEGAL, A. C. provides legal support and carries out research and educational training for young human rights defenders (ASILEGAL, A. C. n.d.).

Centro de Apoyo a las Identidades Trans, A. C. is a Mexican civil society organization founded in 2011 that works for the defence and promotion of the human rights of the trans population (Centro de Apoyo a las Identidades Trans, A. C. 6 May 2018).

Non-binary "is a term used by those whose identities do not fit into a strictly male/female binary" (CBC 20 Jan. 2018). "It encompasses … those who identify as neither male nor female, those who identify as both, those who are gender-fluid and identify periodically more as feminine or masculine" (CBC 20 Jan. 2018).

References

Academic. 7 May 2018. Correspondence with the Research Directorate.


Asistencia Legal por los Derechos Humanos, A. C. (ASILEGAL, A. C.). 6 May 2018. Correspondence from the LGBTI Coordinator to the Research Directorate.


Centro de Apoyo a las Identidades Trans, A. C. 6 May 2018. Correspondence from the Director General to the Research Directorate.


Researcher. 3 May 2018. Correspondence with the Research Directorate.


**Additional Sources Consulted**

**Oral sources:** Academics specializing in indigenous issues and gender identity in Mexico; ARC International; Arcus Foundation; Asociación Internacional de Lesbianas, Gays, Bisexuales, Trans e Intersex para America Latina y el Caribe; Association of Women in Development; Católicas por el Derecho a Decidir, A. C.; Centro Comunitario de Atención a la Diversidad Sexual; Ciudadanos Yucatecos por la Diversidad; Colectivo León Gay, A. C.; Comisión Mexicana de Defensa y Promoción de los Derechos Humanos; Comunidad Metropolitana, A. C.; Género, Ética y Salud Sexual, A. C.; ILGA; independent researcher specializing in sexual orientation and gender identity issues in Mexico; Investigaciones Queer, A. C.; Letra S; Organization of American States - Rapporteurship on the Rights of Lesbian, Gay, Bisexual, Trans and Intersex Persons; Outright Action; Transgender Law Center; UN – Independent Expert on Sexual Orientation and Gender Identity; World Policy Institute.

**Internet sites, including:** Amnesty International; ARC International; Arcus Foundation; Asistencia Legal por los Derechos Humanos; Católicas por el Derecho a Decidir, A. C.; ecoinet; Fusion; Human Rights Watch; *La Izquierda Diario; OutRight Action; UN – Refworld; University of Toronto – International Human Rights Program.*
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Countries

• Mexico

Topics

• Gender mainstreaming
• Indigenous persons
• Persecution on the basis of sexual orientation or gender identity
Tab. 5.
EXECUTIVE SUMMARY

Mexico, which has 32 states, is a multiparty federal republic with an elected president and bicameral legislature. In 2012 President Enrique Pena Nieto of the Institutional Revolutionary Party won election to a single six-year term in elections observers considered free and fair. Citizens elected members of the Senate in 2012 and members of the Chamber of Deputies in 2015. Observers considered the June 2016 gubernatorial elections free and fair.

Civilian authorities generally maintained effective control over the security forces.

The most significant human rights issues included involvement by police, military, and other state officials, sometimes in coordination with criminal organizations, in unlawful killings, disappearances, and torture; harsh and life-threatening prison conditions in some prisons; arbitrary arrests and detentions; intimidation and corruption of judges; violence against journalists by government and organized criminal groups; violence against migrants by government officers and organized criminal groups; corruption; lethal violence and sexual assault against institutionalized persons with disabilities; lethal violence against members of the indigenous population and against lesbian, gay, bisexual, transgender, and intersex persons; and lethal violence against priests by criminal organizations.

Impunity for human rights abuses remained a problem, with extremely low rates of prosecution for all forms of crimes.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were reports the government or its agents committed arbitrary or unlawful killings, often with impunity. Organized criminal groups also were implicated in numerous killings, acting with impunity and at times in league with corrupt federal, state, local, and security officials. The National Human Rights Commission (CNDH) reported 24 complaints of “deprivation of life” between January and December 15.
In May the Ministry of National Defense (SEDENA) arrested and immediately transferred to civilian authorities a military police officer accused of the May 3 unlawful killing of a man during a confrontation in Puebla between soldiers and a gang of fuel thieves. No trial date had been set at year’s end.

The civilian trial that started in 2016 continued for the commander of the 97th Army Infantry Battalion and three other military officers who were charged in 2016 for the illegal detention and extrajudicial killing in 2015 of seven suspected members of an organized criminal group in Calera, Zacatecas.

A federal investigation continued at year’s end in the 2015 Tanhuato, Michoacan, shooting in which federal police were accused of executing 22 persons after a gunfight and of tampering with evidence. An August 2016 CNDH recommendation stated excessive use of force resulted in the execution of at least 22 individuals. The CNDH also reported that two persons had been tortured, police gave false reports regarding the event, and the crime scene had been altered. Security Commissioner Renato Sales claimed the use of force by police at Tanhuato was justified and proportional to the threat they faced and denied the killings were arbitrary executions. The CNDH called for an investigation by the Attorney General’s Office, expanded human rights training for police, and monetary compensation for the families of the 22 victims. No federal police agents were charged.

Authorities made no additional arrests in connection with the 2015 killing of 10 individuals and illegal detentions and injury to a number of citizens in Apatzingan, Michoacan.

On August 1, a judge ordered federal authorities to investigate whether army commanders played a role in the 2014 killings of 22 suspected criminals in Tlatlaya, Mexico State. In his ruling the judge noted that the federal Attorney General’s Office had failed to investigate a purported military order issued before the incident in which soldiers were urged to “take down criminals under cover of darkness.” In January a civilian court convicted four Mexico State attorney general’s office investigators on charges of torture, also pertaining to the Tlatlaya case. In 2016 a civilian federal court acquitted seven military members of murder charges, citing insufficient evidence. In 2015 the Sixth Military Court convicted one soldier and acquitted six others on charges of military disobedience pertaining to the same incident. Nongovernmental organizations (NGOs) expressed concerns regarding the lack of convictions in the case and the perceived failure to investigate the chain of command.
On October 17, the Federal Police developed a use of force protocol. The protocol instructs federal police to use force in a “rational, proportional manner, with full respect for human rights.”

Criminal organizations carried out human rights abuses and widespread killings throughout the country, sometimes in coordination with state agents.

As of November 20, according to media reports, families of disappeared persons and authorities had discovered more than 1,588 clandestine mass graves in 23 states. For example, in March, 252 human skulls were found in a mass grave in Colinas de Santa Fe, Veracruz. From January 2006 through September 2016, the CNDH reported that more than 850 mass graves were identified throughout the country. Civil society groups noted that there were few forensic anthropology efforts underway to identify remains.

b. Disappearance

There were reports of forced disappearances--the secret abduction or imprisonment of a person--by security forces and of many forced disappearances related to organized criminal groups, sometimes with allegations of state collusion. In its data collection, the government often merged statistics on forcibly disappeared persons with missing persons not suspected of being victims of forced disappearance, making it difficult to compile accurate statistics on the extent of the problem.

Federal law prohibits forced disappearances, but laws relating to forced disappearances vary widely across the 32 states, and not all classify “forced disappearance” as distinct from kidnapping.

Investigation, prosecution, and sentencing for the crime of forced disappearance were rare. The CNDH registered 19 cases of alleged forced disappearances through December 15.

There were credible reports of police involvement in kidnappings for ransom, and federal officials or members of the national defense forces were sometimes accused of perpetrating this crime. The government’s statistics agency (INEGI) estimated that 94 percent of crimes were either unreported or not investigated and that underreporting of kidnapping may have been even higher.
In January, five sailors were charged by civilian prosecutors for illegal detention of a man in Mexico State. No trial date had been set at year’s end. In July the Ministry of the Navy (SEMAR) arrested and transferred to civilian authorities seven sailors for their alleged involvement in a series of kidnappings.

On November 16, the president signed into law the General Law on Forced Disappearances after three years of congressional debate. The law establishes criminal penalties for persons convicted, stipulating 40 to 90 years’ imprisonment for those found guilty of the crime of forced disappearance, and provides for the creation of a National System for the Search of Missing Persons, a National Forensic Data Bank, an Amber Alert System, and a National Search Commission.

The CNDH registered 19 cases of alleged forced disappearances through December 15. In an April report on disappearances, the CNDH reported 32,236 registered cases of disappeared persons through September 2016. According to the CNDH, 83 percent of cases were concentrated in the following states: Tamaulipas, Mexico State, Sinaloa, Nuevo Leon, Chihuahua, Coahuila, Sonora, Guerrero, Puebla, and Michoacan.

As of April 30, according to the National Registry of Missing Persons, 31,053 individuals were recorded as missing or disappeared. Tamaulipas was the state with the most missing or disappeared persons at 5,657, followed by Mexico State at 3,754 and Jalisco with 2,754. Men represented 74 percent of those disappeared, according to the database.

As of August the deputy attorney general for human rights was investigating 943 cases of disappeared persons. The federal Specialized Prosecutor’s Office for the Search of Missing Persons had opened cases for 747 victims; the Unit for the Investigation of Crimes against Migrants had opened cases for 143 victims; the Iguala Case Investigation Office had opened cases for 43 victims; and the special prosecutor for violence against women and trafficking in persons had opened cases for 10 victims.

At the state level, in March, Jalisco state authorities announced the creation of the specialized attorney general’s office for disappeared persons. As of May 31, the Jalisco Amber Alert system for missing minors had been used 964 times (since its inception in 2013). As of May 31, a separate Jalisco Alba Alert system to report the disappearance of a woman or girl had been employed more than 1,200 times since its inception in April 2016.
In June the state government of Chihuahua announced the creation of a specialized attorney general’s office for grave human rights violations, including enforced disappearances. According to a local NGO, the Center for Women’s Human Rights (CEDEHM), Chihuahua was one of the states with the highest numbers of enforced disappearances, with more than 1,870 victims as of May 2016. During the year the state also signed a memorandum of understanding with a group of independent forensics experts from Argentina to analyze human remains found in the municipalities of Cuauhtemoc, Carichi, and Cusihuiriachi and to gather DNA.

The Coahuila governor’s office and state attorney general’s office formed a joint working group early in the year to improve the state’s unit for disappearances, collaborating with the local NGO Fray Juan de Larios to build the first registry of disappeared persons in Coahuila. The governor met monthly with families of the disappeared. Coahuila state prosecutors continued to investigate forced disappearances between 2009 and 2012 by the Zetas transnational criminal organization. These disappearances, carried out in collusion with some state officials and municipal police, occurred in the border towns of Piedras Negras, Allende, and Nava. State prosecutors executed 18 arrest warrants in the Allende massacre, including 10 for former police officials. Separately, they issued 19 arrest warrants for officials from the Piedras Negras state prison accused of allowing a transnational criminal organization to use the prison as a base to kill and incinerate victims.

Local human rights NGOs criticized the state’s response, saying most of those arrested were set free by courts after the state erred by filing kidnapping charges against the accused rather than charges of forced disappearance. A coalition of Coahuila-based human rights NGOs, many of them backed by the Roman Catholic diocese of Saltillo, filed a communique with the International Criminal Court in the Hague stating that state-level government collusion with transnational criminal organizations had resulted in massive loss of civilian life between 2009 and 2012, during the administration of then governor Humberto Moreira. They further stated that between 2012 and 2016, during the administration of then governor Ruben Moreira (brother of Humberto), state security authorities committed crimes against humanity in their fight against the Zetas, including unjust detention and torture. In July the state government disputed these findings and produced evidence of its investigations into these matters.

In a study of forced disappearances in Nuevo Leon released in June, researchers from the Latin American Faculty of Social Science’s Observatory on Disappearance and Impunity, the University of Minnesota, and Oxford University
found that the 548 documented forced disappearances in the state between 2005 and 2015 were almost equally divided between those ordered by state agents (47 percent) and those ordered by criminal organizations (46 percent). Of the state agents alleged to be behind these disappearances, 35 were federal or military officials, 30 were state-level officials, and 65 were municipal officials. The study relied primarily on interviews with incarcerated gang members and family members of disappeared persons.

In May the Veracruz state government established an online database of disappearances, documenting 2,500 victims, and began a campaign to gather samples for a DNA database to assist in identification.

In 2016 the Inter-American Commission on Human Rights (IACHR) launched the follow-up mechanism agreed to by the government, the IACHR, and the families of the 43 students who disappeared in Iguala, Guerrero, in 2014. The government provided funding for the mechanism to continue the work of the group of independent experts (GIEI) that supported the investigation of the disappearances and assisted the families of the victims during their 2015-16 term. At the end of the GIEI mandate in April 2016, the experts released a final report critical of the government’s handling of the case. The federal government reported it had complied with 923 of the experts’ 973 recommendations. In December the government extended the GIEI mandate for an additional year.

According to information provided by the Attorney General’s Office in August, authorities had indicted 168 individuals and arrested 128, including 73 police officers from the towns of Cocula and Iguala, and 55 alleged members of the Guerrero-based drug trafficking organization Guerreros Unidos connected to the Iguala case. Authorities held many of those arrested on charges related to organized crime rather than on charges related to the disappearance of the students, according to the GIEI. In 2016 authorities arrested the former police chief of Iguala, Felipe Flores, who had been in hiding since the 2014 disappearances. A 2016 CNDH report implicated federal and local police officers from nearby Huitzuco in the killings. Representatives from the Attorney General’s Office, Foreign Ministry, and Interior Ministry met regularly with the families of the victims to update them on progress being made in the case. Both federal and state authorities reported they continued to investigate the case, including the whereabouts of the missing students or their remains.

In April the Follow-Up Mechanism expressed its “concern about the slow pace in the search activities and in the effective clarification of the various lines of
investigation indicated by the GIEI.” The commission also noted, “Not a single person has been prosecuted in this case for the crime of forced disappearance, and no new charges have been filed since December 2015.” The commission noted progress in “the administrative steps taken to contract the Light Detection and Ranging (LIDAR) surveying technology to be used in the search for the students, the progress made in the investigation of telephone communications, and the establishment of a timeline for taking statements from those arrested and other individuals. It also values the progress made in the investigations into possible involvement of police officers from Huitzuco.” In July the IACHR Office of the Special Rapporteur for Freedom of Expression expressed concern regarding alleged spying that targeted “at least one member of the GIEI” along with human rights defenders and journalists.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture and other cruel, inhuman, or degrading treatment or punishment, and confessions obtained through illicit means are not admissible as evidence in court. Despite these prohibitions, there were reports of torture and other illegal punishments.

As of November 30, the CNDH registered 85 complaints of torture. NGOs stated that in some cases the CNDH misclassified torture as inhuman or degrading treatment.

Fewer than 1 percent of federal torture investigations resulted in prosecution and conviction, according to government data. The Attorney General’s Office conducted 13,850 torture investigations between 2006 and 2016, and authorities reported 31 federal convictions for torture during that period. Congress approved and the president signed the General Law to Prevent, Investigate, and Punish Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment that entered into force on June 26. Human rights groups and the OHCHR commended the law, which establishes an “absolute prohibition” on the use of torture “in any circumstance,” assigns command responsibility, sets a sentence of up to 20 years’ imprisonment for convicted government officials and of up to 12 years’ imprisonment for convicted nonofficials, stipulates measures to prevent obstruction of internal investigations, and envisions a national mechanism to prevent torture and a national registry maintained by the Office of the Attorney General.
The law also eliminates the requirement that formal criminal charges be filed before a complaint of torture may be entered in the national registry, adds higher penalties for conviction of torturing “vulnerable” classes of victims (women and persons with disabilities), permits federal investigation of state cases of torture when an international body has ruled on the case or if the victim so requests, and eliminates requirements that previously prevented judges from ordering investigations into torture.

In 2015 the Attorney General’s Office created the *Detainee Consultation System* website to allow the public to track the status of detainees in the federal penitentiary system, including their physical location, in real time. The office collaborated with all 32 states on implementation of the system at the state and federal level, and the site was visited on average 476 times a day. The states that were farthest along in implementing the system were Campeche, Mexico City, Coahuila, Mexico State, Jalisco, Nuevo Leon, Michoacan, Puebla, Queretaro, and Tlaxcala.

On March 30, the Quintana Roo attorney general’s office apologized to Hector Casique, who was tortured and wrongly convicted of multiple counts of homicide in 2013 during a previous state administration. In September 2016 Casique was released from prison. On June 9, he was killed by unknown assailants.

On August 22, a state judge acquitted and ordered the release of Maria del Sol Vazquez Reyes after nearly five years of imprisonment for conviction of crimes that the court found she was forced to confess under torture by the former investigation agency of the Veracruz state police. The officers who tortured her had not been charged by year’s end.

In May in Chihuahua, prosecutor Miguel Angel Luna Lopez was suspended after a video from 2012 became public that showed him interrogating two suspects with bandaged faces. Luna was reinstated as a police agent while the investigation continued. Also in Chihuahua, in January a former municipal police officer, Erick Hernandez Mendoza, was formally charged with torturing a housekeeper who was suspected of stealing from her employer. Two other police officers who allegedly took part in her torture were not charged.

### Prison and Detention Center Conditions

Conditions in prisons and detention centers could be harsh and life threatening due to corruption; overcrowding; abuse; inmate violence; alcohol and drug addiction;
inadequate health care, sanitation, and food; comingling of pretrial and convicted persons; and lack of security and control.

Physical Conditions: According to a CNDH report, state detention centers suffered from “uncontrolled self-government in aspects such as security and access to basic services, violence among inmates, lack of medical attention, a lack of opportunities for social reintegration, a lack of differentiated attention for groups of special concern, abuse by prison staff, and a lack of effective grievance mechanisms.” Some of the most overcrowded prisons were plagued by riots, revenge killings, and jailbreaks. Criminal gangs often held de facto control inside prisons.

Health and sanitary conditions were often poor, and most prisons did not offer psychiatric care. Some prisons were staffed with poorly trained, underpaid, and corrupt correctional officers, and authorities occasionally placed prisoners in solitary confinement indefinitely. Authorities held pretrial detainees together with convicted criminals. The CNDH noted the lack of access to adequate health care was a significant problem. Food quality and quantity, heating, ventilation, and lighting varied by facility, with internationally accredited prisons generally having the highest standards.

A CNDH report in June noted many of the prisons, particularly state-run correctional facilities, were unsafe, overcrowded, and understaffed. It surveyed conditions at more than 190 state, local, and federal facilities and found inmates often controlled some areas of prisons or had contraband inside. The report cited insufficient staff, unsafe procedures, and poor medical care at many facilities. Inmates staged mass escapes, battled each other, and engaged in shootouts using guns that police and guards smuggled into prison. A report released in March by the National Security Commission stated that 150 federal and state prisons were overcrowded and exceeded capacity by 17,575 prisoners.

On July 31, INEGI released its first National Survey on Population Deprived of Freedom 2016, based on a survey of 211,000 inmates in the country’s 338 state and federal penitentiaries. The survey revealed that 87 percent of prison inmates reported bribing guards for items such as food, making telephone calls, or obtaining a blanket or mattress. Another survey of 64,000 prisoners revealed that 36 percent reported paying bribes to other inmates, who often controlled parts of penitentiaries. Fifty percent of prisoners said they paid bribes to be allowed to have appliances in their cells, and 26 percent said they paid bribes to be allowed to have electronic communications devices, including cell phones, which were banned in many prisons.
The CNDH reported conditions for female prisoners were inferior to those for men, due to a lack of appropriate living facilities and specialized medical care. The CNDH found several reports of sexual abuse of inmates in the State of Mexico’s Nezahualcoyotl Bordo de Xochiaca Detention Center. Cases of sexual exploitation of inmates were also reported in Mexico City and the states of Chihuahua, Coahuila, Guerrero, Nayarit, Nuevo Leon, Oaxaca, Puebla, Quintana Roo, Sinaloa, Sonora, Tamaulipas, and Veracruz.

The CNDH reported 86 homicides and 26 suicides in state and district prisons in 2016. Fourteen states did not report information regarding homicides and suicides to the CNDH. The CNDH noted in its 2016 report on prisons that in general prisons were not prepared to prevent or address violent situations such as suicides, homicides, fights, injuries, riots, and jailbreaks.

The state government in Tamaulipas struggled to regain control of its prisons after decades of ceding authority to prison gangs, according to media and NGO reports. Criminal organizations constantly battled for control of prisons, and numerous riots claimed more than a dozen prisoners’ lives, including three foreign prisoners in the past year (two in Nuevo Laredo, one in Ciudad Victoria). On April 18, an inspection at the prison in Ciudad Victoria uncovered four handguns, two AK-47s, one hand grenade, and 108 knives. On June 6, a riot at the same facility claimed the lives of three state police officers and four inmates. On July 31, the official in charge of the prisons in Tamaulipas, Felipe Javier Tellez Ramirez, was killed in Ciudad Victoria reportedly in retaliation for challenging the criminal gangs in the state’s prison system.

Prisoner outbreaks or escape attempts also plagued Tamaulipas’ prisons. On March 22, 29 prisoners escaped through a tunnel from a prison in Ciudad Victoria, Tamaulipas. On June 19, eight inmates escaped from the youth detention center in Guemez. On August 10, nine inmates were killed and 11 injured in an inmate fight at a prison in Reynosa where a tunnel had previously been discovered. Guards fired live ammunition to control the situation, which occurred during family visiting hours.

In June, 28 inmates were killed by their rivals at a prison in Acapulco. Three prison guards were arrested for having allowed the attackers to exit their cells to kill their rivals.
On October 9, a riot at Nuevo Leon’s Cadereyta state prison was initially contained but flared up again the next day as inmates set fires. Press reports indicated one prisoner died in the fires. After three prison guards were taken hostage, state police were sent into the prison to control the situation. Official sources reported that at least 16 inmates died during the riot, some because of police action to reclaim control of the prison. This was the fifth lethal riot at a Nuevo Leon prison since 2016.

Civil society groups reported abuses of migrants in some migrant detention centers. Human rights groups reported many times asylum seekers from the Northern Triangle of Central America held in detention and migrant transitory centers were subject to abuse when comingled with other migrants such as MS-13 gang members from the region. In addition migration officials reportedly discouraged persons potentially needing international assistance from applying for asylum, claiming their applications were unlikely to be approved. These conditions resulted in many potential asylum seekers and persons in need of international protection abandoning their claims (see also section 2.d.).

**Administration:** While prisoners and detainees could file complaints regarding human rights violations, access to justice was inconsistent, and authorities generally did not release the results of investigations to the public.

**Independent Monitoring:** The government permitted independent monitoring of prison conditions by the International Committee of the Red Cross, the CNDH, and state human rights commissions. Independent monitors were generally limited to making recommendations to authorities to improve conditions of confinement.

**Improvements:** State facilities continued to seek international accreditation from the American Correctional Association, which requires demonstrated compliance with a variety of international standards. As of August 20, an additional 12 correctional facilities achieved accreditation, raising the total number of state and federal accredited facilities to 70.

**d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, but the government sometimes failed to observe these requirements.

**Role of the Police and Security Apparatus**
The federal police, as well as state and municipal police, have primary responsibility for law enforcement and the maintenance of order. The federal police are under the authority of the interior secretary and the National Security Commission, state police are under the authority of the state governors, and municipal police are under the authority of local mayors. SEDENA and SEMAR also play a role in domestic security, particularly in combatting organized criminal groups. Article 89 of the constitution grants the president the authority to use the armed forces for the protection of internal and national security, and the courts have upheld the legality of the armed forces’ role in undertaking these activities in support of civilian authorities. The National Migration Institute (INM), under the authority of the Interior Ministry, is responsible for enforcing migration laws and protecting migrants.

On December 21, the president signed the Law on Internal Security, which provides a more explicit legal framework for the role the military had been playing for many years in public security. The law authorizes the president to deploy the military to the states at the request of civilian authorities to assist in policing. The law subordinates civilian law enforcement operations to military authority in some instances and allows the president to extend deployments indefinitely in cases of “grave danger.” Upon signing the law, President Pena Nieto publicly affirmed he would not seek to implement it until the Supreme Court had the opportunity to review any constitutional challenges to the new law. At years end, no challenges had been submitted to the Supreme Court. The law passed despite the objections of the CNDH, the Catholic archdiocese, some civil society organizations, the IACHR, and various UN bodies and officials, including the UN High Commissioner for Human Rights, who argued that it could further militarize citizen security and exacerbate human rights abuses. The government argued the law would in fact serve to limit the military’s role in law enforcement by establishing command structures and criteria for deployments. Military officials had long sought to strengthen the legal framework for the domestic operations they have been ordered by civilian authorities to undertake. Proponents of the law also argued that since many civilian police organizations were unable to cope with public security challenges unaided, the law merely clarified and strengthened the legal framework for what was a practical necessity. Many commentators on both sides of the argument regarding the law contended that the country still had not built civilian law enforcement institutions capable of ensuring citizen security.

The law requires military institutions to transfer all cases involving civilian victims, including human rights cases, to civilian prosecutors to pursue in civilian
courts. There are exceptions, as when both the victim and perpetrator are members of the military, in which case the matter is dealt with by the military justice system. SEDENA, SEMAR, the federal police, and the Attorney General’s Office have security protocols for the transfer of detainees, chain of custody, and use of force. The protocols, designed to reduce the time arrestees remain in military custody, outline specific procedures for handling detainees.

As of August the Attorney General’s Office was investigating 138 cases involving SEDENA or SEMAR officials suspected of abuse of authority, torture, homicide, and arbitrary detention. Military tribunals have no jurisdiction over cases with civilian victims, which are the exclusive jurisdiction of civilian courts.

Although civilian authorities maintained effective control over security forces and police, impunity, especially for human rights abuses, remained a serious problem. The frequency of prosecution for human rights abuse was extremely low.

Military officials withheld evidence from civilian authorities in some cases. Parallel investigations by military and civilian officials of human rights violations complicated prosecutions due to loopholes in a 2014 law that granted civilian authorities jurisdiction to investigate violations committed by security forces. Of 505 criminal proceedings conducted between 2012 and 2016, the Attorney General’s Office won only 16 convictions, according to a November report by the Washington Office on Latin America citing official figures, which also indicated that human rights violations had increased in tandem with the militarization of internal security. The Ministry of Foreign Relations acknowledged the report, stated that the problems stemmed from the conflict with drug-trafficking organizations, as well as the proliferation of illegal weapons, and emphasized that the military’s role in internal security was only a temporary measure.

On November 16, women of the Atenco case testified before the Inter-American Court of Human Rights and called for the court to conduct an investigation into the case. The 2006 San Salvador Atenco confrontation between local vendors and state and federal police agents in Mexico State resulted in two individuals being killed and more than 47 women taken into custody, with many allegedly sexually tortured by police officials. In 2009 an appeals court reversed the sole conviction of a defendant in the case.

SEDENA’s General Directorate for Human Rights investigates military personnel for violations of human rights identified by the CNDH and is responsible for promoting a culture of respect for human rights within the institution. The
directorate, however, has no power to prosecute allegations of rights violations or to take independent judicial action.

**Arrest Procedures and Treatment of Detainees**

The constitution allows any person to arrest another if the crime is committed in his or her presence. A warrant for arrest is not required if an official has direct evidence regarding a person’s involvement in a crime, such as having witnessed the commission of a crime. This arrest authority, however, is only applicable in cases involving serious crimes in which there is risk of flight. Bail is available for most crimes, except for those involving organized crime and a limited number of other offenses. In most cases the law provides for detainees to appear before a judge for a custody hearing within 48 hours of arrest during which authorities must produce sufficient evidence to justify continued detention, but this requirement was not followed in all cases, particularly in remote areas of the country. In cases involving organized crime, the law allows authorities to hold suspects for up to 96 hours before they must seek judicial review.

The procedure known in Spanish as “arraigo” (a constitutionally permitted form of detention, employed during the investigative phase of a criminal case before probable cause is fully established) allows, with a judge’s approval, for certain suspects to be detained for up to 80 days prior to the filing of formal charges. Under the new accusatory system, arraigo has largely been abandoned.

Some detainees complained of a lack of access to family members and to counsel after police held persons incommunicado for several days and made arrests arbitrarily without a warrant. Police occasionally failed to provide impoverished detainees access to counsel during arrest and investigation as provided for by law, although the right to public defense during trial was generally respected. Authorities held some detainees under house arrest.

**Arbitrary Arrest:** Allegations of arbitrary detentions persisted throughout the year. The IACHR, the UN Working Group on Arbitrary Detention, and NGOs expressed concerns regarding arbitrary detention and the potential for arbitrary detention to lead to other human rights abuses.

A July report by Amnesty International reported widespread use of arbitrary detention by security forces.
Pretrial Detention: Lengthy pretrial detention was a problem, although NGOs such as the Institute for Economics and Peace credited the transition to the accusatory justice system (completed in 2016) with reducing its prevalence. A 2015 IACHR report showed that 42 percent of individuals detained were in pretrial detention. The law provides time limits on pretrial detention, but authorities sometimes failed to comply with them, since caseloads far exceeded the capacity of the federal judicial system. Violations of time limits on pretrial detention were also endemic in state judicial systems.

Detainee’s Ability to Challenge Lawfulness of Detention before a Court: Persons who are arrested or detained, whether on criminal or other grounds, may challenge their detention through a writ of habeas corpus. The defense may argue, among other things, that the accused did not receive proper due process, suffered a human rights abuse, or had his or her basic constitutional rights violated. By law, individuals should be promptly released and compensated if their detention is found to be unlawful, but authorities did not always promptly release those unlawfully detained. In addition, under the criminal justice system, defendants apprehended during the commission of the crime may challenge the lawfulness of their detention during their court hearing.

e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, court decisions were susceptible to improper influence by both private and public entities, particularly at the state and local level, as well as by transnational criminal organizations. Authorities sometimes failed to respect court orders, and arrest warrants were sometimes ignored. Across the criminal justice system, many actors lacked the necessary training and resources to carry out their duties fairly and consistently in line with the principle of equal justice.

Trial Procedures

In 2016 all civilian and military courts officially transitioned from an inquisitorial legal system based primarily upon judicial review of written documents to an accusatory trial system reliant upon oral testimony presented in open court. In some states alternative justice centers employed mechanisms such as mediation, negotiation, and restorative justice to resolve minor offenses outside the court system.
Under the accusatory system, all hearings and trials are conducted by a judge and follow the principles of public access and cross-examination. Defendants have the right to a presumption of innocence and to a fair and public trial without undue delay. Defendants have the right to attend the hearings and to challenge the evidence or testimony presented. Defendants may not be compelled to testify or confess guilt. The law also provides for the rights of appeal and of bail in many categories of crimes. The law provides defendants with the right to an attorney of their choice at all stages of criminal proceedings. By law attorneys are required to meet professional qualifications to represent a defendant. Not all public defenders were qualified, however, and often the state public defender system was understaffed and underfunded. Administration of public defender services was the responsibility of either the judicial or executive branch, depending on the jurisdiction. According to the Center for Economic Research and Economic Teaching, most criminal suspects did not receive representation until after their first custody hearing, thus making individuals vulnerable to coercion to sign false statements prior to appearing before a judge.

Defendants have the right to free assistance of an interpreter if needed, although interpretation and translation services into indigenous languages at all stages of the criminal process were not always available. Indigenous defendants who did not speak Spanish sometimes were unaware of the status of their cases and were convicted without fully understanding the documents they were instructed to sign.

The lack of federal rules of evidence caused confusion and led to disparate judicial rulings.

**Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

**Civil Judicial Procedures and Remedies**

Citizens have access to an independent judiciary in civil matters to seek civil remedies for human rights violations. For a plaintiff to secure damages against a defendant, authorities first must find the defendant guilty in a criminal case, a significant barrier in view of the relatively low number of convictions for civil rights offenses.

**f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**
The law prohibits such practices and requires search warrants. There were some complaints of illegal searches or illegal destruction of private property.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The law provides for freedom of expression, including for the press, and the government generally respected this right. Most newspapers, television, and radio stations had private ownership. The government had minimal presence in the ownership of news media but remained the main source of advertising revenue, which at times influenced coverage. Media monopolies, especially in small markets, could constrain freedom of expression.

Violence and Harassment: Journalists were subject to physical attacks, harassment, and intimidation (especially by state agents and transnational criminal organizations) due to their reporting. This created a chilling effect that limited media’s ability to investigate and report, since many of the reporters who were killed covered crime, corruption, and local politics. During the year more journalists were killed because of their reporting than in any previous year. The OHCHR recorded 15 killings of reporters, and Reporters Without Borders identified evidence that the killing of at least 11 reporters was directly tied to their work.

Perpetrators of violence against journalists acted with impunity, which fueled further attacks. According to Article 19, a press freedom NGO, the impunity rate for crimes against journalists was 99.7 percent. The 276 attacks against journalists in the first six months of the year represented a 23 percent increase from the same period in 2016. Since its creation in 2010, the Office of the Special Prosecutor for Crimes Against Journalists (FEADLE), a unit of the Attorney General’s Office, won only two convictions in more than 800 cases it pursued. During the year there was only one conviction for the murder of a journalist at the local level. In February a court in Oaxaca convicted and sentenced a former police officer to 30 years’ imprisonment for the 2016 murder of journalist Marcos Hernandez Bautista. The OHCHR office in Mexico publicly condemned the failure to prosecute crimes against journalists.

Government officials believed organized crime to be behind most of these attacks, but NGOs asserted there were instances when local government authorities
participated in or condoned the acts. An April report by Article 19 noted 53 percent of cases of aggression against journalists in 2016 originated with public officials. Although 75 percent of those came from state or local officials, federal officials and members of the armed forces were also suspected of being behind attacks.

In April the government of Quintana Roo offered a public apology to journalist Pedro Canche, who was falsely accused by state authorities of sabotage and detained for nine months in prison.

According to Article 19, 11 journalists were killed between January 1 and October 15. For example, on March 23, Miroslava Breach, correspondent for the daily newspapers *La Jornada* and *El Norte de Chihuahua*, was shot eight times and killed as she was preparing to take her son to school in Chihuahua City. Many of her publications focused on political corruption, human rights abuses, attacks against indigenous communities, and organized crime. According to the Committee to Protect Journalists (CPJ), she was the only national correspondent to cover the troubled Sierra Tarahumara indigenous region. On December 25, federal police made an arrest in the case of an individual linked to a branch of the Sinaloa cartel who they stated was the mastermind of the crime. Breach’s family told *La Jornada* newspaper they did not believe the suspect in custody was behind the killing, which they attributed to local politicians who had previously threatened the reporter.

On May 15, Javier Valdez, founder of *Riodoce* newspaper in Sinaloa, winner of a 2011 CPJ prize for heroic journalism and outspoken defender of press freedom, was shot and killed near his office in Culiacan, Sinaloa.

During the first six months of the year, the National Mechanism to Protect Human Rights Defenders and Journalists received 214 requests for protection, an increase of 143 percent from 2016. Since its creation in 2012 through July, the mechanism accepted 589 requests for protection. On August 22, a journalist under the protection of the mechanism, Candido Rios, was shot and killed in the state of Veracruz. Following the wave of killings in early May, the president replaced the special prosecutor for crimes against freedom of expression at the Attorney General’s Office and held a televised meeting with state governors and attorneys general to call for action in cases of violence against journalists. NGOs welcomed the move but expressed concern regarding shortcomings, including the lack of an official protocol to handle journalist killings despite the appointment of the special prosecutor. NGOs maintained that the special prosecutor had not used his office’s
Censorship or Content Restrictions: Human rights groups reported state and local governments in some parts of the country worked to censor the media and threaten journalists. In June the New York Times newspaper reported 10 Mexican journalists and human rights defenders were targets of an attempt to infiltrate their smartphones through an Israeli spyware program called Pegasus that was sold only to governments, citing a forensic investigation by Citizen Lab at the University of Toronto. Officials at the Attorney General’s Office acknowledged purchasing Pegasus but claimed to have used it only to monitor criminals.

Journalists reported altering their coverage in response to a lack of protection from the government, attacks against members of the media and newsrooms, false charges of “publishing undesirable news,” and threats or retributions against their families, among other reasons. There were reports of journalists practicing self-censorship because of threats from criminal groups and of government officials seeking to influence or pressure the press, especially in the states of Tamaulipas and Sinaloa.

Libel/Slander Laws: There are no federal laws against defamation, libel, or slander, but local laws remain in eight states. Five states have laws that restrict the use of political caricatures or “memes.” These laws were seldom applied.

Nongovernmental Impact: Organized criminal groups exercised a grave and increasing influence over media outlets and reporters, threatening individuals who published critical views of crime groups. Concerns persisted regarding the use of physical violence by organized criminal groups in retaliation for information posted online, which exposed journalists, bloggers, and social media users to the same level of violence faced by traditional journalists.

Internet Freedom

The government did not restrict or disrupt access to the internet or block or filter online content. Freedom House’s 2016 Freedom on the Net report categorized the country’s internet as partly free, noting an increase in government requests to social media companies to remove content.

Some civil society organizations alleged that various state and federal agencies sought to monitor private online communications. NGOs alleged that provisions in
secondary laws threatened the privacy of internet users by forcing telecommunication companies to retain data for two years, providing real-time geolocation data to police, and allowing authorities to obtain metadata from private communications companies without a court order. Furthermore, the law does not fully define the “appropriate authority” to carry out such actions. Despite civil society pressure to nullify the government’s data retention requirements and real-time geolocation provisions passed in 2014, the Supreme Court upheld those mechanisms. The court, however, noted the need for authorities to obtain a judicial warrant to access users’ metadata.

In June the government stated it was opening a criminal investigation to determine whether prominent journalists, human rights defenders, and anticorruption activists were subjected to illegal surveillance via sophisticated surveillance malware. INEGI estimated 59 percent of citizens over age five had access to the internet.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights. There were some reports of security forces using excessive force against demonstrators. Twelve states have laws that restrict public demonstrations.

c. Freedom of Religion

See the Department of State’s International Religious Freedom Report at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection
and assistance to refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

The government and press reports noted a marked increase in refugee and asylum applications during the previous year. UNHCR projected the National Refugee Commission (COMAR) would receive 20,000 asylum claims by the end of the year, compared with 8,788 in 2016. COMAR projected lower numbers, noting that as of June 30, it had received 6,816 petitions.

At the Iztapalapa detention center near Mexico City, the Twenty-First Century detention center in Chiapas, and other detention facilities, men were kept separate from women and children, and there were special living quarters for lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals. Migrants had access to medical, psychological, and dental services, and the Iztapalapa center had agreements with local hospitals to care for any urgent cases free of charge. Individuals from countries with consular representation also had access to consular services. COMAR and CNDH representatives visited daily, and other established civil society groups were able to visit the detention facilities on specific days and hours. Victims of trafficking and other crimes were housed in specially designated shelters. Human rights pamphlets were available in many different languages. In addition approximately 35 centers cooperated with UNHCR and allowed it to put up posters and provide other information on how to access asylum for those in need of international protection.

Abuse of Migrants, Refugees, and Stateless Persons: The press and NGOs reported victimization of migrants by criminal groups and in some cases by police and immigration officers and customs officials. Government and civil society sources reported Central American gang presence spread farther into the country and threatened migrants who had fled the same gangs in their home countries. An August report by the independent INM Citizens’ Council found incidents in which immigration agents had been known to threaten and abuse migrants to force them to accept voluntary deportation and discourage them from seeking asylum. The council team visited 17 detention centers across the country and reported threats, violence, and excessive force against undocumented migrants. The INM responded to these allegations by asserting it treated all migrants with “absolute respect.”

There were media reports that criminal groups kidnapped undocumented migrants to extort money from migrants’ relatives or force them into committing criminal acts on their behalf.
In March the federal government began operating the Crimes Investigation Unit for Migrants and the Foreign Support Mechanism of Search and Investigation. The International Organization for Migration collaborated with municipal governments to establish offices along the border with Guatemala to track and assist migrants.

**In-country Movement**: There were numerous instances of armed groups limiting the movements of migrants, including by kidnappings and homicides.

**Internally Displaced Persons (IDPs)**

The Internal Displacement Monitoring Center estimated that as of 2016, there were at least 311,000 IDPs who had fled their homes and communities in response to criminal, political, and religiously motivated violence as well as natural disasters. In 2016 the CNDH released a report stating 35,433 IDPs were displaced due to drug trafficking violence, interreligious conflicts, and land disputes. At approximately 20,000, Tamaulipas reportedly had the highest number of IDPs followed by 2,165 in Guerrero and 2,008 in Chihuahua. NGOs estimated hundreds of thousands of citizens, many fleeing areas of armed conflict among organized criminal groups, or between the government and organized criminal groups, became internally displaced. The government, in conjunction with international organizations, made efforts to promote the safe, voluntary return, resettlement, or local integration of IDPs.

**Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status and complementary protection, and the government has an established procedure for determining refugee status and providing protection to refugees. As of August COMAR had received 8,703 petitions, of which 1,007 had been accepted for review, 1,433 were marked as abandoned, 1,084 were not accepted as meeting the criteria, and 385 were accepted for protection. According to NGOs, only one-third of applicants was approved and the remaining two-thirds classified as economic migrants not meeting the legal requirements for asylum; applicants abandoned some petitions. NGOs reported bribes sometimes influenced the adjudication of asylum petitions and requests for transit visas.

The government worked with UNHCR to improve access to asylum and the asylum procedure, reception conditions for vulnerable migrants and asylum seekers, and integration (access to school and work) for those approved for refugee
and complementary protection status. UNHCR also doubled the capacity of COMAR by funding an additional 36 staff positions.

Section 3. Freedom to Participate in the Political Process

The law provides citizens the ability to choose their government through free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

Elections and Political Participation

Recent Elections: Observers considered the June gubernatorial races in three states; local races in six states; and the 2016 gubernatorial, 2015 legislative, and 2012 presidential elections to be free and fair.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate. The law provides for the right of indigenous persons to elect representatives to local office according to “uses and customs” law rather than federal and state electoral law.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for conviction of official corruption, but the government did not enforce the law effectively. There were numerous reports of government corruption during the year. Corruption at the most basic level involved paying bribes for routine services or in lieu of fines to administrative officials or security forces. More sophisticated and less apparent forms of corruption included funneling funds to elected officials and political parties by overpaying for goods and services.

Although by law elected officials enjoy immunity from prosecution while holding public office, state and federal legislatures have the authority to waive an official’s immunity. As of August more than one-half of the 32 states followed this legal procedure to strip immunity, and almost all other states were taking similar steps.

By law all applicants for federal law enforcement jobs (and other sensitive positions) must pass an initial vetting process and be recleared every two years. According to the Interior Ministry and the National Center of Certification and Accreditation, most active police officers at the national, state, and municipal levels underwent at least initial vetting. The press and NGOs reported that some
police officers who failed vetting remained on duty. The CNDH reported that some police officers, particularly at the state and local level, were involved in kidnapping, extortion, and providing protection for, or acting directly on behalf of, organized crime and drug traffickers.

On July 19, the National Anticorruption System, signed into law by the president in 2016, entered into force. The law gives autonomy to federal administrative courts to investigate and sanction administrative acts of corruption, establishes harsher penalties for government officials convicted of corruption, provides the Superior Audit Office (ASF) with real-time auditing authority, and establishes an oversight commission with civil society participation. Observers hailed the legislation as a major achievement in the fight against corruption but criticized a provision that allows public servants an option not to declare their assets. A key feature of the system is the creation of an independent anticorruption prosecutor and court. The Senate had yet to appoint the special prosecutor at year’s end.

Corruption: In July the Attorney General’s Office took custody of former governor of Veracruz Javier Duarte, who had gone into hiding in Guatemala and was facing corruption charges. The government was also seeking the extradition from Panama of former governor of Quintana Roo Roberto Borge and issued an arrest warrant for former governor of Chihuahua Cesar Duarte. The ASF filed criminal charges with the Attorney General’s Office against 14 state governments for misappropriating billions of dollars in federal funds. The ASF was also investigating several state governors, including former governors of Sonora (Guillermo Padres) and Nuevo Leon (Rodrigo Medina), both of whom faced criminal charges for corruption. The Attorney General’s Office also opened an investigation against Nayarit Governor Sandoval for illicit enrichment as a result of charges brought against him by a citizens group, which also included some opposing political parties.

The NGO Mexicans Against Corruption and Impunity and media outlet AnimalPolitico published a report accusing Attorney General Raul Cervantes of involvement in fraud, revealing that he had registered a Ferrari vehicle valued at more than $200,000 to an unoccupied house in an apparent effort to avoid taxes. Cervantes’ attorney attributed improper registration to administrative error. On October 16, Cervantes resigned, stating the reason for his resignation was to preserve the political independence of the new prosecutor’s office that was to replace the current Attorney General’s Office as part of a constitutional reform.
Financial Disclosure: In 2016 the Congress passed a law requiring all federal and state-level appointed or elected officials to provide income and asset disclosure, statements of any potential conflicts of interests, and tax returns, but the law includes a provision that allows officials an option to withhold the information from the public. The Ministry of Public Administration monitors disclosures with support from each agency. Regulations require disclosures at the beginning and end of employment, as well as annual updates. The law requires declarations be made publicly available unless an official petitions for a waiver to keep his or her file private. Criminal or administrative sanctions apply for abuses. In June the Supreme Court declined a petition by opposition political parties to overturn the provision for a privacy waiver.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were mostly cooperative and responsive to their views, and the president or cabinet officials met with human rights organizations such as the OHCHR, the IACHR, and the CNDH. Some NGOs alleged that individuals who organized campaigns to discredit human rights defenders sometimes acted with tacit support from officials in government.

Government Human Rights Bodies: The CNDH is a semiautonomous federal agency created by the government and funded by the legislature to monitor and act on human rights violations and abuses. It may call on government authorities to impose administrative sanctions or pursue criminal charges against officials, but it is not authorized to impose penalties or legal sanctions. If the relevant authority accepts a CNDH recommendation, the CNDH is required to follow up with the authority to verify that it is carrying out the recommendation. The CNDH sends a request to the authority asking for evidence of its compliance and includes this follow-up information in its annual report. When authorities fail to accept a recommendation, the CNDH makes that failure known publicly and may exercise its power to call before the Senate government authorities who refuse to accept or enforce its recommendations.

All states have their own human rights commission. The state commissions are funded by the state legislatures and are semiautonomous. The state commissions did not have uniform reporting requirements, making it difficult to compare state data and therefore to compile nationwide statistics. The CNDH may take cases
from state-level commissions if it receives a complaint that the commission has not adequately investigated.

**Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

**Women**

**Rape and Domestic Violence:** Federal law criminalizes rape of men or women, including spousal rape, and conviction carries penalties of up to 20 years’ imprisonment. Twenty-four states have laws criminalizing spousal rape.

The federal penal code prohibits domestic violence and stipulates penalties for conviction of between six months’ and four years’ imprisonment. Twenty-nine states stipulate similar penalties, although in practice sentences were often more lenient. Federal law does not criminalize spousal abuse. State and municipal laws addressing domestic violence largely failed to meet the required federal standards and often were unenforced.

According to the law, the crime of femicide is the murder of a woman committed because of the victim’s gender and is a federal offense punishable if convicted by 40 to 60 years in prison. It is also a criminal offense in all states. The Special Prosecutor’s Office for Violence against Women and Trafficking in Persons of the Attorney General’s Office is responsible for leading government programs to combat domestic violence and prosecuting federal human trafficking cases involving three or fewer suspects. The office had 12 federal prosecutors dedicated to federal cases of violence against women.

In addition to shelters, there were women’s justice centers that provided more services than traditional shelters, including legal services and protection; however, the number of cases far surpassed institutional capacity.

**Sexual Harassment:** Federal labor law prohibits sexual harassment and provides for fines from 250 to 5,000 times the minimum daily wage. Sixteen states criminalize sexual harassment, and all states have provisions for punishment when the perpetrator is in a position of power. According to the National Women’s Institute (INMUJERES), the federal institution charged with directing national policy on equal opportunity for men and women, sexual harassment in the workplace was a significant problem.
Coercion in Population Control: There were few reports of coerced abortion, involuntary sterilization, or other coercive population control methods; however, forced, coerced, and involuntary sterilizations were reported, targeting mothers with HIV. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

Discrimination: The law provides women the same legal status and rights as men and “equal pay for equal work performed in equal jobs, hours of work, and conditions of efficiency.” Women tended to earn substantially less than men did. Women were more likely to experience discrimination in wages, working hours, and benefits.

Children

Birth Registration: Children derived citizenship both by birth within the country’s territory and from one’s parents. Citizens generally registered the births of newborns with local authorities. Failure to register births could result in the denial of public services such as education or health care.

Child Abuse: There were numerous reports of child abuse. The National Program for the Integral Protection of Children and Adolescents, mandated by law, is responsible for coordinating the protection of children’s rights at all levels of government.

Early and Forced Marriage: The legal minimum marriage age is 18. Enforcement, however, was inconsistent across the states, where some civil codes permit girls to marry at 14 and boys at 16 with parental consent. With a judge’s consent, children may marry at younger ages.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children, and authorities generally enforced the law. Nonetheless, NGOs reported sexual exploitation of minors, as well as child sex tourism in resort towns and northern border areas.

Statutory rape constitutes a crime in the federal criminal code. If an adult is convicted of having sexual relations with a minor ages 15 to 18, the penalty is between three months and four years in prison. Conviction of the crime of sexual relations with a minor under age 15 carries a sentence of eight to 30 years’ imprisonment. Laws against corruption of a minor and child pornography apply to
victims under age 18. For conviction of the crimes of selling, distributing, or promoting pornography to a minor, the law stipulates a prison term of six months to five years and a fine of 300 to 500 times the daily minimum wage. For conviction of crimes involving minors in acts of sexual exhibitionism or the production, facilitation, reproduction, distribution, sale, and purchase of child pornography, the law mandates seven to 12 years’ imprisonment and a fine of 800 to 2,500 times the daily minimum wage.

Perpetrators convicted of promoting, publicizing, or facilitating sexual tourism involving minors face seven to 12 years’ imprisonment and a fine of 800 to 2,000 times the daily minimum wage. For those convicted of involvement in sexual tourism who commit sexual acts with minors, the law requires a 12- to 16-year prison sentence and a fine of 2,000 to 3,000 times the daily minimum wage. Conviction of sexual exploitation of a minor carries an eight- to 15-year prison sentence and a fine of 1,000 to 2,500 times the daily minimum wage.

Institutionalized Children: Civil society groups expressed concerns regarding abuses of children with mental and physical disabilities in orphanages, migrant centers, and care facilities.


Anti-Semitism

The 67,000-person Jewish community experienced low levels of anti-Semitism. While an Anti-Defamation League report described an increase in anti-Semitic attitudes in the country from 24 percent of the population in 2014 to 35 percent of the population in 2017, Jewish community representatives reported low levels of anti-Semitic acts and good interreligious cooperation both from the government and civil society organizations in addressing rare instances of anti-Semitic acts.

Trafficking in Persons

See the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities
The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government did not effectively enforce the law. The law requires the Ministry of Health to promote the creation of long-term institutions for persons with disabilities in distress, and the Ministry of Social Development must establish specialized institutions to care for, protect, and house persons with disabilities in poverty, neglect, or marginalization. NGOs reported authorities had not implemented programs for community integration. NGOs reported no changes in the mental health system to create community services nor any efforts by authorities to have independent experts monitor human rights violations in psychiatric institutions.

Public buildings and facilities did not comply with the law requiring access for persons with disabilities. The education system provided special education for students with disabilities nationwide. Children with disabilities attended school at a lower rate than those without disabilities. NGOs reported employment discrimination.

Abuses in mental health institutions and care facilities, including those for children, were a problem. Abuses of persons with disabilities included lack of access to justice, the use of physical and chemical restraints, physical and sexual abuse, trafficking, forced labor, disappearances, and illegal adoption of institutionalized children. Institutionalized persons with disabilities often lacked adequate medical care and rehabilitation, privacy, and clothing and often ate, slept, and bathed in unhygienic conditions. They were vulnerable to abuse from staff members, other patients, or guests at facilities where there was inadequate supervision. Documentation supporting the person’s identity and origin was lacking, and there were instances of disappearances.

As of August 25, the NGO Disability Rights International (DRI) reported that most residents had been moved to other institutions from the privately run institution Casa Esperanza, where they were allegedly victims of pervasive sexual abuse by staff and, in some cases, human trafficking. Two of the victims died within the first six months after transfer to other facilities, and the third was sexually abused. DRI stated the victim was raped repeatedly during a period of seven months at the Fundacion PARLAS I.A.P. and that another woman was physically abused at an institution in another state to which she was transferred.

Voting centers for federal elections were generally accessible for persons with disabilities, and ballots were available with a braille overlay for federal elections.
In Mexico City, voting centers for local elections were also reportedly accessible, including braille overlays, but these services were inconsistently available for local elections elsewhere in the country.

**Indigenous People**

The constitution provides all indigenous peoples the right to self-determination, autonomy, and education. Conflicts arose from interpretation of the self-governing “uses and customs” laws used by indigenous communities. Uses and customs laws apply traditional practices to resolve disputes, choose local officials, and collect taxes, with limited federal or state government involvement. Communities and NGOs representing indigenous groups reported the government often failed to consult indigenous communities adequately when making decisions regarding the development of projects intended to exploit the energy, minerals, timber, and other natural resources on indigenous lands. The CNDH maintained a formal human rights program to inform and assist members of indigenous communities.

The CNDH reported indigenous women were among the most vulnerable groups in society. They often experienced racism and discrimination and were often victims of violence. Indigenous persons generally had limited access to health-care and education services.

Thousands of persons from the four indigenous groups in the Sierra Tarahumara (the Raramuri, Pima, Guarojio, and Tepehuan) were displaced, and several indigenous leaders were killed or threatened, according to local journalists, NGOs, and state officials.

For example, on January 15, Isidro Baldenegro Lopez was killed in Chihuahua. Lopez was a community leader of the Raramuri indigenous people and an environmental activist who had won the Goldman Environmental Prize in 2005.

On June 26, Mario Luna, an indigenous leader of the Yaqui tribe in the state of Sonora, was attacked with his family by unknown assailants in an incident believed to be harassment in retaliation for his activism in opposition to an aqueduct threatening the tribe’s access to water. Luna began receiving formal protection from federal and state authorities after he was attacked.

**Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**
The law prohibits discrimination based on sexual orientation and against LGBTI individuals.

In Mexico City the law criminalizes hate crimes based on sexual orientation and gender identity. Civil society groups claimed police routinely subjected LGBTI persons to mistreatment while in custody.

Discrimination based on sexual orientation and gender identity was prevalent, despite a gradual increase in public tolerance of LGBTI individuals, according to public opinion surveys. There were reports that the government did not always investigate and punish those complicit in abuses, especially outside Mexico City.

On April 18, media reported LGBTI activist Juan Jose Roldan Avila was beaten to death on April 16 in Calpulalpan, Tlaxcala. His body showed signs of torture.

**Other Societal Violence or Discrimination**

The Catholic Multimedia Center reported criminal groups targeted priests and other religious leaders in some parts of the country and subjected them to extortion, death threats, and intimidation. As of August the center reported four priests killed, two foiled kidnappings, and two attacks against the Metropolitan Cathedral and the Mexican Bishops Office in Mexico City.

**Section 7. Worker Rights**

**a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form and join unions, to bargain collectively, and to strike in both the public and private sectors; however, conflicting law, regulations, and practice restricted these rights.

The law requires a minimum of 20 workers to form a union. To receive official recognition from the government, unions must file for registration with the appropriate conciliation and arbitration board (CAB) or the Ministry of Labor and Social Welfare. For the union to be able to perform its legally determined functions, its leadership must also register with the appropriate CAB or the ministry. CABs operated under a tripartite system with government, worker, and employer representatives. Outside observers raised concerns that the boards did not adequately provide for inclusive worker representation and often perpetuated a bias against independent unions, in part due to intrinsic conflicts of interest within
the structure of the boards exacerbated by the prevalence of representatives from “protection” (unrepresentative, corporatist) unions.

By law a union may call for a strike or bargain collectively in accordance with its own bylaws. Before a strike may be considered legal, however, a union must file a “notice to strike” with the appropriate CAB, which may find that the strike is “nonexistent” or, in other words, it may not proceed legally. The law prohibits employers from intervening in union affairs or interfering with union activities, including through implicit or explicit reprisals against workers. The law allows for reinstatement of workers if the CAB finds the employer fired the worker unfairly and the worker requests reinstatement; however, the law also provides for broad exemptions for employers from such reinstatement, including employees of confidence or workers who have been in the job for less than a year.

Although the law authorizes the coexistence of several unions in one worksite, it limits collective bargaining to the union that has “ownership” of a collective bargaining agreement. When there is only one union present, it automatically has the exclusive right to bargain with the employer. Once a collective bargaining agreement is in place at a company, another union seeking to bargain with the employer must compete for bargaining rights through a recuento (bargaining-rights election) administered by the CAB. The union with the largest number of votes goes on to “win” the collective bargaining rights. It is not mandatory for a union to consult with workers or have worker support to sign a collective bargaining agreement with an employer. The law establishes that internal union leadership votes may be held via secret ballot, either directly or indirectly.

The government, including the CABs, did not consistently protect worker rights. The government’s common failure to enforce labor and other laws left workers with little recourse regarding violations of freedom of association, poor working conditions, and other labor problems. The CABs’ frequent failure to impartially and transparently administer and oversee procedures related to union activity, such as union elections and strikes, undermined worker efforts to exercise freely their rights to freedom of association and collective bargaining.

On February 24, labor justice revisions to the constitution were enacted into law. The constitutional reforms replace the CABs with independent judicial bodies, which are intended to streamline the labor justice process. Observers contended that additional changes to the labor law were necessary to provide for the following: workers are able to freely and independently elect union representatives, there is an expedited recount process, unions demonstrate union
representativeness prior to filing a collective bargaining agreement, and workers to be covered by the agreement receive a copy prior to registration--thus eliminating unrepresentative unions and “protection” contracts.

By law penalties for violations of freedom of association and collective bargaining laws range from 16,160 pesos ($960) to 161,600 pesos ($9,640). Such penalties were rarely applied and were insufficient to deter violations. Administrative and/or judicial procedures were subject to lengthy delays and appeals.

Workers exercised their rights to freedom of association and collective bargaining with difficulty. The process for registration of unions was politicized, and according to union organizers, the government, including the CABs, frequently used the process to reward political allies or punish political opponents. For example, it rejected registration applications for locals of independent unions, and for unions, based on technicalities.

The country’s independent unions and their legal counsel, as well as global and North American trade unions, continued to encourage the government to ratify the International Labor Organization (ILO) Convention 98 on collective bargaining, which it delayed doing despite removal of the main obstacle to compliance in the 2012 labor law reform, the exclusion clause for dismissal. By ratifying the convention, the government would subject itself to the convention’s oversight and reporting procedures. Ratification would also contribute, according to the independent unions, to ensuring that the institutions that are established as a result of the labor justice reform are, in law and practice, independent, transparent, objective, and impartial, with workers having recourse to the ILO’s oversight bodies to complain of any failure.

Companies and protection unions (unrepresentative, corporatist bodies) took advantage of complex divisions and a lack of coordination between federal and state jurisdictions to manipulate the labor conciliation and arbitration processes. For example, a company might register a collective bargaining agreement at both the federal and the local level and later alternate the jurisdictions when individuals filed and appealed complaints to gain favorable outcomes. Additionally, union organizers from several sectors raised concerns regarding the overt and usually hostile involvement of the CABs when organizers attempted to create independent unions.

Protection unions and “protection contracts”—collective bargaining agreements signed by employers and these unions to circumvent meaningful negotiations and
preclude labor disputes--was a problem in all sectors. The prevalence of protection contracts was due, in part, to the lack of a requirement for workers to demonstrate support for collective bargaining agreements before they took effect. Protection contracts often were developed before the company hired any workers and without direct input from or knowledge of the covered workers.

Independent unions, a few multinational corporations, and some labor lawyers and academics pressed for complementary legislation, including revisions to the labor code that would prohibit registration of collective bargaining agreements where the union could not demonstrate support by a majority of workers or where workers had not ratified the content of the agreements. Many observers noted working conditions of a majority of workers were under the control of these contracts and the unrepresentative unions that negotiated them, and that the protection unions and contracts often prevented workers from fully exercising their labor rights as defined by law. These same groups advocated for workers to receive hard copies of existing collective bargaining agreements when they are hired.

According to several NGOs and unions, many workers faced procedural obstacles, violence, and intimidation around bargaining-rights elections perpetrated by protection union leaders and employers supporting them, as well as other workers, union leaders, and vigilantes hired by a company to enforce a preference for a particular union. Some employers attempted to influence bargaining-rights elections through the illegal hiring of pseudo employees immediately prior to the election to vote for the company-controlled union.

Other intimidating and manipulative practices were common, including dismissal of workers for labor activism. For example, there were reports that a garment factory in Morelos failed to halt workplace sexual harassment and sexual violence and instead fired the whistleblowers that reported the problem to management.

Independent labor activists reported the requirement that the CABs approve strikes in advance gave boards power to show favoritism by determining which companies to protect from strikes. Few formal strikes occurred, but protests and informal work stoppages were common.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, but the government did not effectively enforce the law. Penalties for conviction of forced labor violations
range from five to 30 years’ imprisonment and observers generally considered them sufficient to deter violations.

Forced labor persisted in the agricultural and industrial sectors, as well as in the informal sector. Women and children were subject to domestic servitude. Women, children, indigenous persons, and migrants (including men, women, and children) were the most vulnerable to forced labor. In November authorities freed 81 workers from a situation of forced labor on a commercial farm in Coahuila. In June federal authorities filed charges against the owner of an onion and chili pepper farm in Chihuahua for forced labor and labor exploitation of 80 indigenous workers. The victims, who disappeared following the initial complaint to state authorities, lived in unhealthy conditions and allegedly earned one-quarter of the minimum wage.

Also see the Department of State’s Trafficking in Persons Report at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

The constitution prohibits children under age 15 from working and allows those ages 15 to 17 to work no more than six daytime hours in nonhazardous conditions daily, and only with parental permission. The law requires that children under age 18 must have a medical certificate in order to work. The minimum age for hazardous work is 18. The law prohibits minors from working in a broad list of hazardous and unhealthy occupations.

The government was reasonably effective in enforcing child labor laws in large and medium-sized companies, especially in the maquila sector and other industries under federal jurisdiction. Enforcement was inadequate in many small companies and in agriculture and construction and nearly absent in the informal sector, in which most child laborers worked.

At the federal level, the Ministry of Social Development, Attorney General’s Office, and National System for Integral Family Development share responsibility for inspections to enforce child labor laws and to intervene in cases in which employers violated such laws. The Ministry of Labor is responsible for carrying out child-labor inspections. Penalties for violations range from 16,780 pesos ($1,000) to 335,850 pesos ($20,000) but were not sufficiently enforced to deter violations.
In December 2016 the CNDH alerted national authorities to 240 agricultural workers, including dozens of child laborers, working in inhuman conditions on a cucumber and chili pepper farm in San Luis Potosi after state authorities failed to respond to their complaints.

According to the 2015 INEGI survey, the most recent data available on child labor, the number of employed children ages five to 17 remained at 2.5 million, or approximately 8.4 percent of the 29 million children in the country. Of these children, 90 percent were engaged in work at ages or under conditions that violated federal labor laws. Of employed children 30 percent worked in the agricultural sector in the harvest of melons, onions, cucumbers, eggplants, chili peppers, green beans, sugarcane, tobacco, coffee, and tomatoes. Other sectors with significant child labor included services (25 percent), retail sales (23 percent), manufacturing (14 percent), and construction (7 percent).

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination with respect to employment or occupation regarding “race, nationality age, religion, sex, political opinion, social status, handicap (or challenged capacity), economic status, health, pregnancy, language, sexual preference, or marital status.”

The government did not effectively enforce these laws and regulations. Penalties for violations of the law included administrative remedies, such as reinstatement, payment of back wages, and fines (often calculated based on the employee’s wages), and were not generally considered sufficient to deter violations. Discrimination in employment or occupation occurred against women, indigenous groups, persons with disabilities, LGBTI individuals, and migrant workers.

e. Acceptable Conditions of Work

On November 21, the single general minimum wage rose from 80.04 pesos per day ($4.76) to 88.36 pesos per day ($5.26), short of the official poverty line of 95.24 pesos per day ($5.67). Most formal-sector workers received between one and three times the minimum wage. The tripartite National Minimum Wage Commission, whose labor representatives largely represented protection unions and their interests, is responsible for establishing minimum salaries but continued to block increases that kept pace with inflation.
The law sets six eight-hour days and 48 hours per week as the legal workweek. Any work over eight hours in a day is considered overtime, for which a worker is to receive double pay. After accumulating nine hours of overtime in a week, a worker earns triple the hourly wage. The law prohibits compulsory overtime. The law provides for eight paid public holidays and one week of paid annual leave after completing one year of work. The law requires employers to observe occupational safety and health regulations, issued jointly by the Ministry of Labor and Social Welfare and the Institute for Social Security. Legally mandated joint management and labor committees set standards and are responsible for overseeing workplace standards in plants and offices. Individual employees or unions may complain directly to inspectors or safety and health officials. By law workers may remove themselves from situations that endanger health or safety without jeopardy to their employment.

The Ministry of Labor is responsible for enforcing labor laws and conducting inspections at workplaces. In 2015, the most recent year for which data were available, there were 946 inspectors nationwide. This was sufficient to enforce compliance, and the ministry carried out inspections of workplaces throughout the year, using a questionnaire and other means to identify victims of labor exploitation. Penalties for violations of wage, hours of work, or occupational safety and health laws range from 17,330 pesos ($1,030) to 335,940 pesos ($20,020) but generally were not sufficient to deter violations. Through its DECLARALAB self-evaluation tool, the ministry provided technical assistance to almost 4,000 registered workplaces to help them meet occupational safety and health regulations.

According to labor rights NGOs, employers in all sectors sometimes used the illegal “hours bank” approach—requiring long hours when the workload is heavy and cutting hours when it is light—to avoid compensating workers for overtime. This was a common practice in the maquila sector, in which employers forced workers to take leave at low moments in the production cycle and obliged them to work in peak seasons, including the Christmas holiday period, without the corresponding triple pay mandated by law for voluntary overtime on national holidays. Additionally, many companies evaded taxes and social security payments by employing workers informally or by submitting falsified payroll records to the Mexican Social Security Institute. In 2013, the latest year for which such data are available, INEGI estimated 59 percent of the workforce was engaged in the informal economy.
Observers from grassroots labor rights groups, international NGOs, and multinational apparel brands reported that employers throughout export-oriented supply chains were increasingly using methods of hiring that deepened the precariousness of work for employees. The most common practice reported was that of manufacturers hiring workers on one- to three-month contracts, and then waiting for a period of days before rehiring them on another short-term contract, to avoid paying severance and prevent workers from accruing seniority, while maintaining the exact number of workers needed for fluctuating levels of production. This practice violates Federal Labor Law and significantly impacted workers’ social and economic rights, including elimination of social benefits and protections, restrictions on worker’s rights to freedom of association and collective bargaining, and minimal ability for workers, especially women, to manage their family responsibilities. Observers noted it also increased the likelihood of work-related illness and injury. Combined with outsourcing practices that made it difficult for workers to identify their legally registered employer, workers were also more likely to be denied access to justice.

Private recruitment agencies and individual recruiters violated the rights of temporary migrant workers recruited in the country to work abroad, primarily in the United States. Although the law requires these agencies to be registered, they often were unregistered. The Labor Ministry’s registry was outdated and limited in scope. Although a few large recruitment firms were registered, the registry included many defunct and nonexistent midsized firms, and few if any of the many small, independent recruiters. Although the government did not actively monitor or control the recruitment process, it reportedly was responsive in addressing complaints. There were also reports that registered agencies defrauded workers with impunity. Some temporary migrant workers were regularly charged illegal recruitment fees. According to a 2013 study conducted by the Migrant Worker Rights Center, 58 percent of 220 applicants interviewed had paid recruitment fees; one-half did not receive a job contract and took out loans to cover recruitment costs; and 10 percent paid fees for nonexistent jobs. The recruitment agents placed those who demanded their rights on blacklists and barred them from future employment opportunities.

News reports indicated there were poor working conditions in some maquiladoras. These included low wages, contentious labor management, long work hours, unjustified dismissals, the lack of social security benefits, unsafe workplaces, and the lack of freedom of association. Many women working in the industry reported suffering some form of abuse. Most maquilas hired employees through outsourcing with few social benefits.
Tab. 6.
Refworld | Mexico: Situation of sexual minorities, including in Mexico City; protection and support services offered by the state and civil society (2015…

Last Updated: Monday, 15 June 2020, 11:53 GMT

- English
  - Español
  - Русский
According to a report by the Supreme Court of Justice of Mexico (Suprema Corte de Justicia de la Nación),

[translation]
According to sources, the Federal Law to Prevent and Eliminate Discrimination (Ley Federal para Prevenir y Eliminar la Discriminación) was amended in 2014 to include homophobia and violence against sexual minorities as discrimination grounds (ILGA May 2017, 64; UN 6 May 2016, para. 62). The International Lesbian, Gay, Bisexual, Trans and Intersex Association's (ILGA) 2017 State-Sponsored Homophobia report states that the following state constitutions prohibit discrimination based on sexual orientation: Campeche, Chihuahua, Coahuila, Colima, Durango, Guanajuato, Michoacán, Morelos, Nuevo León, Oaxaca, Puebla, Querétaro, Quintana Roo, San Luis Potosí, Sinaloa, Sonora, Tlaxcala, Veracruz, Yucatán, and Zacatecas (ILGA May 2017, 47). According to sources, the law in Mexico does not protect against gender identity discrimination (Reuters 22 Aug. 2016; US 3 Mar. 2017, 27), except in Mexico City (US 3 Mar. 2017, 27). Sources indicate that in Mexico City, it is possible to change one's legal gender marker (UN 2016, 96; US 3 Mar. 2017, 27; The Economist 18 Aug. 2016).

ILGA's 2017 report states that "Article 149ter(2) of the Federal Penal Code (Código Penal Federal) criminalizes employment discrimination based on sexual orientation and gender identity and aggravates penalties for employers" (ILGA May 2017, 49; see also Mexico 1931, Art. 149 Ter).

In correspondence with the Research Directorate, an activist and researcher who works on sexual and reproductive health and rights internationally and in Mexico and is affiliated with the Gay Latino Network (Red Gay Latino), a Latin American network promoting LGBT rights (FALGBT 22 Dec. 2015), stated that the legislation to protect sexual minorities is only partially effective and that it is society itself which has been promoting change through campaigns, television shows and private companies that support the rights of LGBT persons (Researcher 3 June 2017). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

1.1 Same-Sex Marriage

Sources indicate that there is no federal law on same-sex marriage in Mexico (ILGA May 2017, 68; The Guardian 19 Dec. 2016). Sources report that same-sex marriage is banned in various states (The Economist 18 Aug. 2016; Reuters 11 Sept. 2016). States that allow same-sex marriages, as reported by sources, include:

- Campeche (ILGA May 2017, 68; The Economist 18 Aug. 2016);
- Chihuahua (Reuters 11 Sept. 2016; The Guardian 17 May 2016);
- Coahuila (Reuters 11 Sept. 2016; ILGA May 2017, 68);
- Colima (ILGA May 2017, 68; The Economist 18 Aug. 2016);
- Jalisco (ILGA May 2017, 160; Reuters 11 Sept. 2016);
- Mexico City (ILGA May 2017, 68; The Economist 18 Aug. 2016);
- Michoacán (ILGA May 2017, 68; The Economist 18 Aug. 2016);
- Morelos (ILGA May 2017, 68; The Economist 18 Aug. 2016);
- Nayarit (Reuters 11 Sept. 2016; ILGA May 2017, 68);
- Quintana Roo (Reuters 11 Sept. 2016);
- Sonora (Reuters 11 Sept. 2016).

Sources report that, in 2015, the Supreme Court of Justice ruled that laws restricting same-sex marriage were unconstitutional (Reuters 11 Sept. 2016; The Guardian 17 May 2016; ILGA May 2017, 68). According to The Guardian, "this judicial ruling did not invalidate state bans" (The Guardian 17 May 2016). Sources indicate that with the Supreme Court's ruling, same-sex couples can challenge local laws in the courts (The Guardian 17 May 2016; The Economist 18 Aug. 2016) and "judges are obliged to give them permission to marry" (The Economist 18 Aug. 2016).

### 2. Treatment by Society

The website of the Attorney General's Office (Procuraduría General de la República, PGR) cites the President of the National Council for the Prevention of Discrimination (Consejo Nacional para Prevenir y Eliminar la Discriminación, CONAPRED) [1] as stating that in Mexico, [translation] "discrimination on the basis of sexual orientation and gender identity continues to be a structural phenomenon with extensive social roots" (Mexico 17 May 2017). In correspondence with the Research Directorate, a representative from the Executive Commission of Attention to Victims (Comisión Ejecutiva de Atención a Víctimas - CEAV), a federal agency that supports those who have been victims of a federal crime or whose human rights have been violated (Mexico n.d.a), stated that crimes against sexual minorities are [translation] "constant … and in many cases are motivated by prejudices" (Mexico 1 Aug. 2017). Sources indicate that despite an increase in public tolerance of sexual minorities, discrimination against sexual minorities was prevalent (Researcher 3 June 2017; US 3 Mar. 2017, 27), including at the workplace (US 3 Mar. 2017, 34). According to a study by CEAV and the Rainbow Foundation (Fundación Arcoiris), an association that links academia with "activism" to promote the rights of sexual minorities (Fundación Arcoiris n.d.), based on interviews with 425 LGBT persons in 20 states, 7 out 10 have been discriminated at educational institutions, and 50 percent have experienced harassment or discrimination in the workplace (Mexico and Fundación Arcoiris 11 Apr. 2016, 1, 3).

Agencia EFE cites LGBT organizations as stating that [translation] "persistent homophobia has been promoted in large part by members of the Catholic Church" (Agencia EFE 8 Feb. 2016). In correspondence with the Research Directorate, the Director of Queer Research (Investigaciones Queer, A. C., IQ), a Mexican non-profit organization that raises awareness about the lifestyles of lesbians and homosexuals in Mexico (IQ n.d.), indicated that society in general criticizes, judges and abuses sexual minorities mainly due to [translation] "religious influence" (IQ 6 June 2017).

However, according to the 2014 National Catholic Opinion Survey by the Catholics for the Right to Decide (Católicas por el Derecho a Decidir, CDD), a non-profit organization that promotes sexual and reproductive rights (CDD n.d.), and Research in Health and Demographics (Investigación en Salud y Demografía, S. C., INSAD), a Mexican consultancy agency specializing in social research (INSAD n.d.), based on the interview of 2,669 persons across Mexico who self-identified as Catholics, 87 percent of the Catholics surveyed indicated that they believe homosexuals and lesbians should have the same rights as everybody else, and 59 percent indicated that they support same-sex marriage (CDD 2014).

According to the Researcher,

[t]here is still a lot of discrimination and violence towards the LGBT community, particularly in small cities and rural areas. Things have been improving in the last few years, [for example,] more than 80 cities now have a gay parade and there is a growing LGBT movement across the country but at the same time, many sector[s] in society are still very conservative. (Researcher 3 June 2017)

The Director of IQ indicated that the treatment of the sexual minorities varies from state to state (IQ 6 June 2017). In further correspondence, the same source explained that the areas where sexual minorities are [translation] "most ostracized" are Mérida, Yucatán; Léon and Guanajuato, Guanajuato; Monterrey, Nuevo León; and Jalisco (IQ 7 June 2017). El País, a Spanish newspaper, cites the organizer of the Pride March in Mexico as...
stating that the [translation] "worst places" to be a homosexual in Mexico are Baja California Norte, Baja California Sur, Guanajuato, Puebla and "some municipalities of Jalisco. In general, the region of El Bajío has been characterized as being very conservative where accessing rights [as a homosexual] is difficult" (El País 25 June 2016). According to the Researcher,

there are many cities that are quite friendly such as Mexico City, Guadalajara, Tijuana, Cancun and Acapulco. There are gay clubs and bars in most of the cities across the country but again, that doesn't mean that there's no violence against [the LGBTI] community. (Researcher 3 June 2017)

The Director of IQ stated that in the main cities of the country, like Mexico City, Guadalajara and Monterrey, there are "gay friendly" zones or gay zones where the LGBTI community feels "safe" from being abused, "although there are police officers that look for any way to intimidate or extort couples wherever they are" (IQ 6 June 2017). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

2.1 Situation of Transgender Individuals

The US Country Reports on Human Rights Practices for 2016 indicates that, according to NGOs, "transgender individuals faced discrimination and were marginalized even within the lesbian and gay community" (US 3 Mar. 2017, 27). According to a report by the Transgender Law Center and Cornell University Law School LGBT Clinic on the human rights conditions of transgender women in Mexico [2], "transgender women in Mexico […] face pervasive discrimination, hatred, violence, police abuse, rape, torture, and vicious murder" (Transgender Law Center and Cornell University Law School LGBT Clinic May 2016, 3).

2.2 Situation in Mexico City

The Economist cites a representative of Letra S, a Mexico City-based NGO that promotes the rights of LGBT persons, among others (Letra S n.d.), as stating that "[h]ate crimes against gays are almost unheard of" in Mexico City (The Economist 18 Aug. 2016). In a 2015 report on the situation of human rights in Mexico, the Inter-American Commission for Human Rights (IACHR) of the Organization of American States (OAS) reports that it "notes there have been some improvements in Mexico City in terms of discrimination against LGBTI persons" unlike other parts of the country (OAS 31 Dec. 2015, para. 262). According to Vice News, a news website, "most in [Mexico City's] trans community still typically deal with a lifetime of rejection by their families and potential employers" (Vice News 11 Oct. 2016).

3. Violence Against Sexual Minorities

The UN Special Rapporteur on Extrajudicial or Arbitrary Executions noted "the alarming pattern of grotesque homicides of lesbian, gay, bisexual and transgender individuals and the broad impunity for these crimes, sometimes with the suspected complicity of investigative authorities" (UN 6 May 2016, para. 62). According to the CEAV and Fundación Arcoiris report, trans women and homosexuals represent the group most affected by motivated physical assaults (Mexico and Fundación Arcoiris 11 Apr. 2016, 4).

According to CEAV, there are no statistics available on crimes committed against sexual minorities (Mexico 1 Aug. 2017). However, according to Transgender Europe (TGUE), a Berlin-based organization that promotes the rights of trans people in Europe (TGUE n.d.), 52 "trans and gender-diverse people" were killed in Mexico between 1 October 2015 and 30 September 2016 (TGUE 9 Nov. 2016). According to the US Country Reports 2016, the press reported that three transgender individuals were killed within 13 days in October 2016 (US 3 Mar. 2017, 27). The report by the Transgender Law Center and Cornell University Law School LGBT Clinic states that "Mexico City … has the highest rate of transphobic murders in the country" (Transgender Law Center and Cornell University Law School LGBT Clinic May 2016, 26).

The information in the following paragraph comes from a May 2017 report by Letra S based on media-monitoring findings:
Between January 2014 and December 2016, 202 sexual minorities or perceived as such, were killed as a result of their sexual orientation or gender identity or expression, including 108 trans women (transvestites, transgender or transsexual), 93 gay men and one lesbian woman. The highest number of victims, 76, was recorded in 2016. Of the total 202 victims, 33 showed signs of torture, while 15 showed signs of sexual violence. 17 cases were investigated as [translation] "hate crimes" while 20 were investigated as a [translation] "crime of passion" [3]. 64 people were accused as perpetrators. The states with the highest number of killings are Veracruz (22 murders), State of México (15 murders), Quintana Roo (15 murders), and Chihuahua (14 murders). There were eight murders "presumably" motivated by "hate" or "prejudice" in Mexico City: two in 2014, one in 2015 and five in 2016. In the first quarter of 2017, 20 killings of sexual minorities were registered, including six gay men, one bisexual man and 13 trans women (Letra S 17 May 2017).

4. Treatment by Authorities

According to the CEAV and Fundación Arcoiris report, there are "high levels of distrust in authorities" (Mexico and Fundación Arcoiris 11 Apr. 2016, 4). According to The Guardian, "rights for gay people are still treated as exceptions to be granted at the discretion of local officials" (The Guardian 19 Dec. 2016). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the US Country Reports 2016, "[c]ivil society groups claimed police routinely subjected LGBTI persons to mistreatment while in custody" (US 3 Mar. 2017, 27). The CEAV and Fundación Arcoiris report indicates that at least one out of 10 people surveyed has been detained and that abuse during detention was evident, including physical violence, arbitrary detention and due process violations (Mexico and Fundación Arcoiris 11 Apr. 2016, 4). According to the report by the Transgender Law Center and Cornell University Law School LGBT Clinic, "[p]olice harassment against the LGBT community remains high in Mexico City" (Transgender Law Center and Cornell University Law School LGBT Clinic May 2016, 26). The 2016 CEAV and Fundación Arcoiris report indicates that out of the 425 persons interviewed, 139 reported some form of abuse by authorities, including delays in, or refusal to, provide services, violence and insults (Mexico and Fundación Arcoiris 11 Apr. 2016, 4).

In correspondence with the Research Directorate, a representative of CONAPRED indicated that between August 2015 and 30 April 2017, CONAPRED received 292 complaints for discrimination against sexual minorities (Mexico 21 June 2017). The CONAPRED Representative also provided the following statistics based on the 292 complaints:

- In 238 complaints, the offender was a private citizen, while in 54 complaints, the offender was a federal public servant.
- The states with the highest number of complaints filed were Mexico City (118), State of Mexico (32), Jalisco (25), Nuevo León (10), Chiapas (10), and Quintana Roo (8).
- The rights with the highest number of violations were "dignified treatment," "equality of opportunities and treatment," "labour," and a "life free of violence."
- The places where the highest number of violations took place were at the workplace, provision of public services, neighbourhoods, culture and recreation, education, family, and health care (Mexico 21 June 2017).

In correspondence with the Research Directorate, a representative of Mexico City's Ministry of Public Safety (Secretaría de Seguridad Pública, SSP) indicated that between 2014 and 30 June 2017, there were 15 complaints filed by sexual minorities against public servants of the SSP, of which 5 were either fully investigated or dismissed (Mexico City 30 June 2017).

According to the Researcher,

[there is a lot of harassment and discrimination [by authorities], particularly for trans women at the local level, but at least at the federal level there is an improvement [in how things are handled in different institutions}
including health, education, foreign affairs and so on. (Researcher 3 June 2017).

Reuters cites a Zapopan Police Commissioner as stating that his department has been "providing sensitivity training to promote police empathy towards different vulnerable communities, including the transgender community" (Reuters 22 Aug. 2016). The SSP Representative stated that, in order to promote the rights of sexual minorities and a culture of respect for human rights, between January and 15 June 2017, 547 workshops were given to 15,825 public servants of the SSP belonging to the Preventative Police (Policía Preventiva), Transit Police (Policía de Tránsito), Banking and Industrial Police (Policía Bancaria e Industrial), and the Auxiliary Police (Policía Auxiliar), on topics including human rights, sexual diversity, gender, equal treatment, vulnerable groups, and police intervention protocols (Mexico City 30 June 2017).

5. State Protection

The Supreme Court of Justice of Mexico issued in 2014 a protocol for judges on the adjudication of cases involving sexual minorities (Mexico 2014, 7). The protocol, while not legally binding, provides tools to assist judges to identify and eliminate stereotypes and social misconceptions during the decision-making process and ensure access to justice for sexual minorities (UN 2016, 116). Source indicate that despite special procedures and policies of institutions to protect sexual minorities, they do not necessarily effectively protect them in practice (Researcher 3 June 2017; IQ 6 June 2017).

According to sources, the judicial system is not effective in investigating crimes committed against sexual minorities (Researcher 3 June 2017; IQ 6 June 2017). The Researcher stated that

if someone has been threatened by a gang, [they] can file a complaint with the Judicial Authorities but that doesn't translate into any special protection unless [they] have already been victim of a crime and they [have been] threatened … again. This is particularly problematic for LGBT activists who are at risk. (Researcher 3 June 2017)

The 2016 CEAV and Fundación Arcoiris report indicates that there are low levels of reporting crimes (Mexico and Fundación Arcoiris 11 Apr. 2016, 4). The Researcher stated that less than 10 percent of crimes committed in Mexico are solved, "and in the case of homophobic crimes, even people who are found guilty are set free" (Researcher 3 June 2017). According to the US Country Reports 2016, "there were reports that the government did not always investigate and punish those complicit in abuses [against sexual minorities], especially outside Mexico City" (US 3 Mar. 2017, 26-27). Sources indicate that homophobic crimes are frequently considered as "crimes of passion," (El País 25 June 2016; US 3 Mar. 2017, 27; IQ 6 June 2017) and as a result, authorities fail to adequately investigate, prosecute, or sanction these crimes (US 3 Mar. 2017, 27; IQ 6 June 2017). The Director of IQ indicated that the Commission of Hate Crimes (Comisión de Crímenes por Odio), under the operation and supervision of Letra S, is tasked with monitoring the investigation on such crimes (IQ 6 June 2017). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

6. Support Services

Sources indicate that there are no specific protection programs or services available to sexual minorities who have been victims of violence or discrimination (Researcher 3 June 2017; IQ 6 June 2017). However, sources indicate that the Community Care Centre for Sexual Diversity (Centro Comunitario de Atención a la Diversidad Sexual) promotes the human rights of sexual minorities in Mexico City and provides services (Time Out México 12 Dec. 2014; IQ 6 June 2017). According to Time Out México, the Mexican edition of Time Out, a UK-based media, entertainment and travel magazine (Time Out México n.d.), the Community Care Centre for Sexual Diversity provides free psychological, legal and medical support (Time Out México 12 Dec. 2014). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. The Director of IQ indicated that the Community Care Centre for Sexual Diversity, which was created by the local government, only operates in Mexico City (IQ 6 June 2017).

According to sources, the Community Care Centre for Sexual Diversity is located in Mexico City's Zona Rosa

https://www.refworld.org/docid/5ad5c5d24.html
(Time Out México 12 Dec. 2014; Desastre, A.C. 21 June 2017). Time Out México indicates that in order to access the services and receive help, it is necessary to provide identification and to register (Time Out México 12 Dec. 2014). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. Desastre, A.C., a Mexican news website on LGBTI issues, states, while drawing on information from Reforma, a Mexico City-based newspaper, that the Community Care Centre for Sexual Diversity has attended to approximately 83,000 sexual minorities to date (Desastre, A. C. 21 June 2017). Information on support services outside of Mexico City could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] CONAPRED is a federal agency that promotes policies and measures to contribute to cultural and social development, to advance social inclusion, and to guarantee the right to equality (Mexico n.d.b). CONAPRED is responsible for receiving and investigating complaints for alleged discrimination committed by individuals or public servants (Mexico n.d.b).

[2] Transgender Law Center is an Oakland-based "organization dedicated to advancing the rights of transgender and gender nonconforming people through litigation, policy, advocacy, and public education" (Transgender Law Center and Cornell University Law School LGBT Clinic 2016, 1). The Cornell University Law School LGBT Clinic is a law school clinic "fighting specifically for the legal rights of lesbian, gay, bisexual, and transgender people (Transgender Law Center and Cornell University Law School LGBT Clinic 2016, 1). The report states that excerpts cited from the report are "not legal advice" (Transgender Law Center and Cornell University Law School LGBT Clinic 2016, 1).

[3] According to Cambridge Dictionary, a crime of passion is a "crime committed because of very strong emotional feelings, especially in connection with a sexual relationship" (Cambridge University Press n.d.)

References


Católicas por el derecho a Decidir (CDD). N.d. "Perfil institucional de Católicas por el Derecho a Decidir." [Accessed 9 Jan. 2018]


Mexico City. 30 June 2017. Secretaría de Seguridad Pública de la Ciudad de México (SSPCMX). Correspondence from a representative to the Research Directorate.


Researcher. 3 June 2017. Correspondence with the Research Directorate.


Additional Sources Consulted

Oral Sources: Asociación Internacional de Lesbianas, Gays, Bisexuales, Trans e Intersex para América Latina y el Caribe; Comunidad Metropolitana, A. C.; Fundación Arcoíris por el Respecto a la Diversidad A. C.; Género, Ética y Salud Sexual, A. C.; Guanajuato – Procuraduría General de Justicia; Jalisco – Instituto de Transparencia e Información Pública; Letra S; Mexico – Centro de Servicios y Atención Ciudadana de la Secretaría de Seguridad Pública, Comisión Nacional de los Derechos Humanos; Nuevo León – Procuraduría General de Justicia; professor of journalism at the Universidad Autónoma de la Ciudad de México and activist of LGBT rights; professor of sociology at Northwestern University specializing in sexuality studies.

Internet Sites, including: 24 Horas; Al Día News; Amnesty International; Asistencia Legal por los Derechos Humanos, A. C.; BBC; Centro de Apoyo a las Identidades Trans A. C.; CNN; Deutsche Welle; ecoi.net;
Refworld | Mexico: Situation of sexual minorities, including in Mexico City; protection and support services offered by the state and civil society (2015…

https://www.refworld.org/docid/5ad5c5d24.html

Countries

- Mexico

Topics

- Persecution on the basis of sexual orientation or gender identity
Tab. 7.
Human Rights Committee

Concluding observations on the sixth periodic report of Mexico *

1. The Committee considered the sixth periodic report of Mexico (CCPR/C/MEX/6) at its 3653rd and 3654th meetings (CCPR/C/SR.3653 and 3654), held on 16 and 17 October 2019. At its 3675th and 3676th meetings (CCPR/C/SR.3675 and 3676), held on 31 October and 1 November 2019, it adopted the present concluding observations.

A. Introduction

2. The Committee is grateful to the State party for having accepted the simplified reporting procedure and for submitting its sixth periodic report in response to the list of issues prior to reporting prepared under that procedure (CCPR/C/MEX/QPR/6). It expresses appreciation for the opportunity to renew its constructive dialogue with the State party’s high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for the oral responses provided by the delegation and for the supplementary information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the legislative and institutional measures taken by the State party during the reporting period in the area of civil and political rights, including:

(a) The General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment, promulgated on 26 June 2017;

(b) The General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System, promulgated on 17 November 2017;

(c) The General Victims Act, amended on 3 January 2017, and the Regulations implementing the General Victims Act, promulgated on 28 November 2014;

(d) The Decree modifying, repealing and adding to various provisions of the Code of Military Justice, which amended article 57 of the Code in order to exclude cases involving civilian victims of human rights violations from military jurisdiction, promulgated on 13 June 2014;


C. Principal subjects of concern and recommendations

Legal framework within which the Covenant is implemented

4. The Committee notes with concern that the legal framework in the State party lacks uniformity in the area of human rights. In particular, the Committee is concerned about the failure to implement the provisions of the Covenant effectively, principally in the federative entities, and about the existence of conflicting laws within the State party, including some provisions that are incompatible with the Covenant. In this connection, the Committee recalls that, under the terms of article 50 of the Covenant, in States parties with a federal structure the Covenant’s provisions “shall extend to all parts of federal States without any limitations or exceptions”.

5. With reference to the Committee’s previous recommendations (CCPR/C/MEX/CO/5, para. 5), the State party should ensure that legislation at both the federal and State levels is brought into line with the Covenant, and that the Covenant’s provision are effectively implemented throughout the State party. It should also take measures to ensure that the authorities, including federal and local prosecutors and judges as well as lawyers, are aware of the rights set out in the Covenant.

Constitutional and legislative process
6. While taking note of the delegation’s explanation that, in recent cases, the courts have applied international human rights treaties even when they run counter to the Constitution, the Committee notes with concern that the Supreme Court decision issued in conflicting rulings case No. 293/2011 established that, in the case of explicit restrictions on the exercise of human rights enshrined in the Constitution, the provisions of the Constitution should take precedence (art. 2).

7. The State party should ensure that the constitutional review process is effective, and incorporates, in law and in practice, sufficient judicial safeguards to ensure that the rights enshrined in the Covenant, including the pro persona principle, are fully protected within the domestic legal order. It should also strengthen its law-making processes, especially in respect of laws that have an impact on the exercise of human rights, ensuring that all amendments and reforms respect and uphold the provisions of the Covenant.

**General Victims Act**

8. The Committee is concerned that the General Victims Act has not been sufficiently implemented since its adoption. More specifically, the Committee is concerned that a number of federal and local-level institutions have yet to designate an institution to oversee the new law’s implementation; that most local-level institutions lack the resources and qualified staff necessary to take the measures envisaged in the law; that reparation measures are focused almost exclusively on compensation; and that the administrative procedures for obtaining legal recognition of victim status are complex, and often result in revictimization. The Committee is also concerned that the mechanisms established in the General Victims Act are not accessible to certain population groups, particularly indigenous peoples, and that no specialized care is available for women victims of human rights violations (art. 2).

9. The Committee urges the State party to provide the institutions responsible for implementing the General Victims Act with the necessary resources, appropriate training and effective oversight mechanisms so as to ensure that victims of human rights violations receive prompt and comprehensive reparation that is sensitive to cultural and gender considerations. The State party should also ensure, if necessary by amending legislation, that the procedure for obtaining legal recognition of victim status is swift and efficient.

**Non-discrimination**

10. The Committee is concerned about the discrimination suffered by women, Afro-Mexican communities, indigenous peoples and persons living in rural areas, and about the limited extent to which these groups participate in political and public life. It is also concerned about the gap between men’s and women’s wages. The Committee welcomes the recent decision of the Supreme Court of Justice to guarantee access to the social security system for all domestic workers but notes that administrative and legislative action is needed before the decision can be implemented (arts. 2, 3, 25 and 26).

11. The State party should ensure comprehensive protection against discrimination, including the discrimination suffered by women, Afro-Mexican communities and indigenous peoples. It should take steps to increase the representation of women, indigenous peoples and Afro-Mexicans in public and political life, if necessary by using temporary special measures to give full effect to the provisions of the Covenant. The State party should also further its efforts to reduce the gender pay gap and to eliminate, in theory and in practice, the gender stereotypes associated with men’s and women’s roles and responsibilities in childcare, the family and society. Lastly, it should take the steps necessary to implement the decision of the Supreme Court of Justice to guarantee access to the social security system for all domestic workers and to enhance the social security and labour protection afforded to them by aligning working conditions and legal protection in these sectors with those prevailing in other sectors of employment.

**Discrimination and violence based on sexual orientation and gender identity**

12. The Committee is concerned about the discrimination and the high level of violence, including a large number of homicides, that are motivated by the victim’s sexual orientation or gender identity and regrets that consolidated data on investigations and prosecutions initiated, convictions and punishments handed down and reparations granted in such cases are not available. In spite of the explanations provided by the State party’s delegation, the Committee is concerned about reports of irreversible and invasive medical procedures being performed on intersex children (arts. 2, 6, 7, 17 and 26).

13. The State party should adopt the investigation protocols necessary to ensure that: (a) crimes motivated by the victim’s sexual orientation or gender identity are systematically registered and investigated from a gender perspective; (b) the perpetrators of such crimes are investigated, prosecuted and punished appropriately; and (c) victims have access to safe complaint mechanisms, due support and assistance, adequate protection and comprehensive redress. The State party should redouble its efforts to combat stereotypes and prejudice against lesbian, gay, bisexual, transgender and intersex persons and to guarantee that acts of discrimination and violence directed against them are prevented. It should also take steps to stop irreversible medical treatments being performed, in particular surgical procedures performed on intersex children who do not yet have the capacity to give fully informed and free consent, except when these procedures are absolutely necessary from the medical point of view.

**Violence against women**
14. Although it recognizes the State party’s institutional efforts to address violence against women and girls, the Committee remains concerned about the progressive increase in violence of this kind. The Committee is particularly concerned about:

(a) The lack of alignment between the definitions of the offence of femicide contained in the General Act on Access to a Life Free from Violence for Women and the state-level criminal codes and protocols for the conduct of criminal investigations of femicide;

(b) The challenges affecting the implementation of the gender-based violence alert mechanism, including lack of financial resources and lack of information on the part of the authorities responsible for coordinating the mechanism;

(c) The lack of an effective mechanism, accessible throughout the State party, for implementing the protection orders provided for in the aforementioned General Act;

(d) The small number of prosecution brought and convictions obtained in cases of violence against women and girls and for the offence of femicide (arts. 3, 6 and 7).

15. The State party should redouble its efforts to prevent and combat acts of violence against women and girls. In particular, it should:

(a) Bring the definition of the offence of femicide used through the country into line with the Covenant, and also with the protocols for the conduct of criminal investigations of femicide, and establish, without delay, effective mechanisms to take change of processing and implementing the protection orders provided for in the General Act on Access to a Life Free from Violence for Women through the country;

(b) Endow all institutions responsible for implementing the General Act, including those responsible for implementing the alert mechanism and issuing protection orders, with sufficient financial resources and sufficient, duly trained human resources;

(c) Make it easier for victims to make complaints and ensure that all acts of violence against women and girls are investigated thoroughly, promptly, exhaustively, and impartially from a gender perspective, that the perpetrators are tried and punished and that victims have access to assistance, protection orders and full reparation;

(d) Continue its drive to train judicial personnel, police officers and forensic experts, with a view to eliminating gender stereotypes and preventing revictimization;

(e) Foster engagement and cooperation with civil society organizations working to uphold the rights of women and girls who are victims and survivors.

Voluntary termination of pregnancy and reproductive rights

16. The Committee is concerned that the criminal law provisions regulating voluntary termination of pregnancy differ from one state to another and that in many states abortion is either illegal or permitted only in a limited number of circumstances, resulting in significant numbers of unsafe abortions and in prosecutions and prison sentences. The Committee notes with particular concern that some federative entities have created obstacles to the application of article 35 of the General Victims Act and the official Mexican regulations (NOM-046-SSA2-2005) on family, sexual and gender-based violence, pursuant to which abortion is permitted in cases of rape. The Committee is further concerned about the lack of regulations governing conscientious objection, which was introduced under the General Health Act in 2018, and the absence of safeguards to ensure that the provisions of the new law do not restrict access to abortion. The Committee is also concerned about reports that women who seek terminations in public hospitals are sometimes reported for the offence of abortion by medical or administrative staff. The Committee is concerned about the high rate of teenage pregnancy and limited access to emergency contraception, and also about reports of a lack of appropriate reproductive health services and a failure to fully implement the comprehensive sex education programme. The Committee is likewise concerned about the high rate of maternal mortality among women from indigenous communities (arts. 2, 3, 6, 7, 17 and 26).

17. The State party should:

(a) Harmonize national and state-level legislation in order to guarantee safe, legal and effective access to voluntary termination of pregnancy when the life or health of the pregnant woman or girl is in danger and when carrying the pregnancy to term could cause the pregnant woman or girl substantial harm or suffering, especially in cases where the pregnancy is the result of rape or incest or is not viable;

(b) Repeal the criminal penalties imposed upon women and girls who undergo abortions and upon medical service providers who help them to do so, since such measures compel women and girls to resort to unsafe abortions, and ensure that the professional secrecy of medical staff and patient confidentiality are observed;

(c) Regulate conscientious objection so that it does not in effect constitute a barrier to voluntary termination of pregnancy in safe, legal conditions; and

(d) Ensure unimpeded access to sexual and reproductive health services and to holistic, evidence-based sexuality education in order to raise awareness among men, women, boys and girls throughout the country, including in remote, rural areas.
Right to life and security of person

18. The Committee is concerned about the high – and rising – rate of homicide, the reports of extrajudicial killings and the number of fatalities recorded in the State party in general. While it appreciates that the National Guard is defined in the Constitution as a civilian institution, as the State party’s delegation pointed out, and welcomes the decision of the Supreme Court of Justice (application for constitutional review No. 6/2018 and joined cases Nos. 8/2018, 9/2018, 10/2018 and 11/2018) declaring the National Security Act to be unconstitutional, the Committee is concerned about the militarized nature of the armed forces in general, including the National Guard, and the lack of a clear timeline for the military’s withdrawal from public security operations (arts. 2, 6, 7, 9 and 14).

19. The State party should move away from the militarized approach within the forces of order, move forward in the process of cementing the National Guard as a civilian institution and draw up a plan to ensure the armed forces’ progressive and orderly withdrawal from public security operations. In this connection, the State party should ensure that the armed forces are involved in operations of this kind in exceptional circumstances only, for limited periods of time, in accordance with clear, pre-established protocols and subject to the supervision of civilian oversight and accountability mechanisms. It should also continue its efforts to provide all officers of the National Guard with intensive training in international human rights standards and consider introducing break periods for officers transferring from the armed forces to the National Guard. The State party should also ensure that all cases of alleged extrajudicial killings and human rights violations are investigated in a prompt, thorough and impartial manner, that the perpetrators are prosecuted and punished and that the victims receive full reparation. The State party should, as a matter of urgency, adopt policies that are effective in reducing homicides and extrajudicial killings.

Excessive use of force and National Act on the Use of Force

20. The Committee is concerned about the numerous reports of excessive use of force and firearms by law enforcement officers. In this connection, the Committee notes with concern that some of the provisions contained in the National Act on the Use of Force, which was published in the Official Gazette on 27 May 2019, run counter to the provisions of the Covenant and the Committee’s general comment No. 36 (2019) on the right to life. It is of particular concern to the Committee that the law does not clearly specify the circumstances in which the use of lethal force is permissible, does not provide for records to be kept of cases in which force has been used and for appropriate measures to be established to ensure transparency and accountability in the use of force, and affords protection against the use of weapons at public demonstrations and meetings only if the event is deemed to have a lawful purpose (arts. 6, 7 and 21).

21. The State party should take measures to effectively prevent and eliminate all forms of excessive use of force by law enforcement bodies, specifically by:

(a) Reviewing the National Act on the Use of Force, on the basis of the Covenant, and bringing it into line with the Committee’s general comment No. 36 on the right to life and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

(b) Intensifying the training on international standards on the use of force provided for law enforcement personnel and raising awareness of these standards among judges, prosecutors and lawyers;

(c) Introducing procedures to guarantee that law enforcement operations are properly planned, in a manner consistent with the need to minimize the risk they pose to human life; and

(d) Ensuring that all cases of excessive use of force are recorded and independently investigated, that the perpetrators are prosecuted and sentenced to penalties commensurate with the seriousness of their acts, and that victims are provided with comprehensive reparation.

Impunity

22. The Committee is concerned about the impunity for human rights violations including extrajudicial killing, enforced disappearance and torture that law enforcement officers continue to enjoy. In this connection, the Committee notes with concern the severe deficiencies that hamper the investigation and prosecution of serious human rights violations, which include, in particular: a failure to assign the necessary resources to those responsible for investigations; a lack of autonomy, independence, impartiality and promptness in carrying out investigations; a lack of prosecutors’ offices and units specializing in serious crimes and recurring human rights violations in the State party; the limited training received by public officials in charge of investigations; a lack of autonomy and independence among experts in charge of investigations; and the very low number of prosecutions and convictions. The Committee is also concerned about reports of intimidation and violence being used against victims and members of their families when they report cases of serious human rights violations. With reference to the high-profile case of the enforced disappearance of 43 students from Ayotzinapa in September 2014, which is one of many cases of grave human rights violations that remain unpunished, the Committee regrets that, despite the gravity of this case, the recommendations of various international human rights bodies and the measures adopted, the State party has yet to ascertain the students’ whereabouts, to punish those responsible and to provide the victims with comprehensive reparation (arts. 2, 6, 7, 9 and 14).

23. The State party should step up its efforts to investigate all violent crimes and other serious offences, including the disappearance of the 43 students in Ayotzinapa in September 2014, in a prompt, thorough and impartial manner, to prosecute and punish those responsible and to ensure that the victims receive comprehensive reparation. To this end,
it should increase the investigative capacity and independence of all actors involved in investigations, including prosecutors and experts, reinforce the adversarial system and guarantee the autonomy of the country’s judicial institutions. For all these purposes, it should take international human rights standards into consideration, including the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). The State party should also take the necessary steps to protect witnesses, victims, their relatives and all persons involved in investigations from threats, attacks and any form of reprisals.

**Human rights violations committed during the so-called “dirty war”**

24. The Committee notes with interest the information provided by the State party about efforts made to recognize responsibility for, ascertain the truth of and investigate the serious human rights violations that were committed during the so-called “dirty war” and to provide reparation for the victims; the fact that, in 2019, the President expressed an intention to open up the archives of the Centre for Investigation and National Security; and the recent agreement providing for the transfer of historical documents to the General National Archive. However, the Committee regrets that to date there has been only one conviction in a case of enforced disappearance dating from the period known as the “dirty war” and that the remains of only two persons buried clandestinely during this period have been found (arts. 2, 6, 7, 9, 14 and 16).

25. The State party should step up its efforts to recognize responsibility, ascertain the truth, locate disappeared persons, foster and preserve memory and provide comprehensive reparation for the victims of crimes committed during the so-called “dirty war”. The State party should expedite proceedings in all cases involving serious human rights violations that occurred during this period, including all cases of enforced disappearance, extrajudicial killing and torture, identify those responsible and ensure that they are prosecuted and punished with appropriate sanctions that are commensurate with the gravity of their crimes. The State party should also take the measures necessary to ensure that records transferred to the National Archives Office and records held by the Centre for Investigation and National Security become sources of public access to information and, for this reason, appropriate mechanisms for ensuring the preservation, protection, systematization and publications of records should be established.

**Self-defence groups**

26. The Committee is concerned about the existence of self-defence groups in some federative entities, including the State of Guerrero and the State of Michoacán, and about allegations of violations committed by these groups. The Committee notes with concern the absence of information about the existence of such groups, and the lack of any record of their overall number, the number that are active and any investigations carried out in cases in which they have used violence (arts. 6, 7 and 14).

27. The State party should reinforce the presence of civilian public security institutions so as to guarantee civil security throughout the country and prevent self-defence groups from taking the place of the State and performing law-enforcement tasks. It should also conduct investigations and prosecute all acknowledged members of self-defence groups who commit human rights violations, and, if they are found guilty, it should sentence them appropriately.

**Enforced disappearances**

28. The Committee welcomes the delegation’s assurances that the issue of enforced disappearance is one of the Federal Government’s main priorities. Although the information provided by the State party indicates that a new system for registering details of disappeared persons has been finalized, the Committee is concerned about the tardiness shown in implementing this system and the other databases and tools envisaged in the general law covering enforced disappearance and related issues. While the establishment of search commissions and special prosecutor’s offices to investigate offences of enforced disappearance is a positive development, the Committee is concerned about the alarming degree of impunity evident in cases reported, including in those in which collusion between criminal groups and the security forces is alleged, and about the number of bodies of deceased persons that are still waiting to be identified (arts. 2, 6, 7, 9, 14 and 16).

29. The State party should:

(a) Establish all records, databases and tools envisaged under the General Act on Enforced Disappearance of Persons, Disappearance Perpetrated by Individuals and the National Missing Persons System;

(b) Strengthen the capacity of the prosecutors’ offices specialized in cases of disappeared persons and redouble efforts to investigate all cases of alleged enforced disappearance in a thorough, credible, impartial and transparent manner in order to clarify the whereabouts of disappeared persons and prosecute and punish those responsible;

(c) Ensure that victims and members of their families are regularly informed of the progress and results of search and investigation efforts and receive the official administrative documents required pursuant to international standards, and that they are provided with comprehensive reparation, including rehabilitation, compensation, satisfaction and guarantees of non-repetition;

(d) Ensure that perpetrators are prosecuted and, if found guilty, receive sentences that are commensurate with the gravity of the crime;
(e) Take all necessary measures to ensure that search commissions operate in institutional, budgetary and security conditions that allow them to fulfil their mandate without delay, in accordance with the relevant legislation; and

(f) Ensure that the forensic institute has sufficient resources, personnel and competence to cover existing needs for the investigation and identification of the large number of unidentified corpses and human remains.

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment

30. The Committee welcomes the adoption of the General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment in 2017 but regrets that the Act has not been effectively implemented. The Committee is concerned about reports of widespread use of torture, ill-treatment and excessive use of force by the police, armed forces and other public officials, particularly during arrest and the initial period of detention. It is also concerned that, according to information received, investigations into and convictions for acts of torture are rare. Although national law prohibits the use of evidence obtained through torture or violations of fundamental rights, the Committee is concerned about allegations that torture is used to extract information or confessions which are then used in court as evidence, and that the courts fail to follow up on such allegations (arts. 7 and 10).

31. The State party should, as a matter of urgency, put an end to the practice of torture and ill-treatment. In particular, the State party should:

(a) Ensure the effective implementation of the General Act on the Prevention, Investigation and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment of 2017 at both the federal and state levels;

(b) Ensure that all allegations of torture and ill-treatment are investigated promptly, thoroughly and effectively; where appropriate, prosecute and punish the perpetrators with penalties commensurate with the gravity of the offence; and provide effective remedies for the victims, including rehabilitation;

(c) Ensure that national legislation is applied, and thus that evidence and confessions obtained under torture cannot be used;

(d) Take all measures necessary to prevent torture, particularly by enhancing training for judges, prosecutors, medical experts, forensic experts and officers of the National Guard, armed forces and other security forces; and

(e) Collect accurate data on cases of torture and ill-treatment and on the ensuing prosecutions, convictions and sentences, and make such information public.

Migrants and asylum seekers

32. Despite the measures taken by the State party, the Committee is concerned about recurrent allegations that migrants, particularly those in an irregular situation, are subjected to violations including torture and cruel, inhuman and degrading treatment, enforced disappearance, extortion, trafficking, homicide and other crimes. The Committee is also concerned about the migration policy recently implemented in the State party, which involves widespread use of detention and, very often, the use of force by State agents. The Committee is likewise concerned that this detention policy causes migrants to take more dangerous routes that increase the risk of their falling victim to crime. An additional concern for the Committee are the use of force by State agents. The Committee is likewise concerned that this detention policy causes migrants to take

33. The State party should:

(a) Ensure that all allegations of human rights violations committed against migrants, refugees and asylum seekers are investigated promptly, impartially and thoroughly, and that the perpetrators are prosecuted and, if found guilty, receive appropriate sentences;

(b) Avoid the administrative detention of asylum seekers and migrants, prioritizing non-custodial alternatives and ensuring that detention is used only as a measure of last resort and for the shortest possible period of time, and refrain from depriving migrant children and asylum seekers of their liberty and from separating migrant families;

(c) Ensure that migrants, refugees and asylum seekers, particularly children, receive protection and assistance in appropriate conditions as well as access to basic services;

(d) Step up its efforts to prevent, combat and punish trafficking in persons and ensure that the measures it takes are implemented effectively;

(e) Ensure that asylum seekers have access to legal aid and the right to initiate appeal proceedings;

(f) Implement training programmes covering the Covenant, international asylum standards and human rights for the staff of migration institutions and border personnel.
**Arraigo** (precautionary detention without charge) and mandatory pretrial detention

34. Although the State party’s delegation has indicated that the practice of *arraigo* has been eliminated from the legal framework, the Committee is concerned that this form of detention continues to be used since the repeal amendment has not yet been submitted to the Senate and the State legislatures for approval. The Committee is particularly concerned about the use of mandatory pretrial detention, since this practice runs counter to the requirements set out in articles 9 and 14 of the Covenant. In particular, the Committee regrets that the use of this practice has been extended to other offences by a constitutional amendment promulgated in April 2019. The Committee is likewise concerned about the large numbers of people held in pretrial detention (arts. 9 and 14).

35. The State party should comply with the Committee’s previous recommendation and complete the constitutional amendment process as soon as possible in order to eliminate the practice of *arraigo* from the State party’s legal order (CCPR/C/MEX/CO/5, para. 15). It should also eliminate mandatory pretrial detention in law and in practice. The State party should significantly reduce the use of pretrial detention and ensure that it always considers the possibility of using alternatives to deprivation of liberty and that pretrial detention is used as a last resort only, on an exceptional and reasoned basis, when strictly necessary and for the shortest possible time, in accordance with general comment No. 35 (2014) on liberty and security of person.

**Conditions of detention**

36. The Committee is concerned that, despite reductions, levels of overcrowding remain high, and this contributes to a lack of separation between remand and convicted prisoners and to precarious living conditions. The Committee notes with concern that prisoners are repeatedly transferred in a bid to ease overcrowding and regrets that this practice often affects detainees’ right to mount a defence and limits contact with members of their families. The Committee takes note of the explanation given by the State party for the existence of a central register of detainees only, but it is concerned about reports which indicate that the system is not efficient and that the register does not contain comprehensive, detailed information about detainees. The Committee also notes with concern the excessive length of time that children spend in prison with their mothers and the lack of guidelines regulating this area (arts. 6, 7, 9 and 10).

37. The State party should:

(a) Implement effective measures to reduce overcrowding, especially in prisons in the federative entities, in particular by promoting non-custodial alternatives to detention such as bail and house arrest;

(b) Safeguard the right of all persons deprived of their liberty to be treated with humanity and dignity and ensure that conditions of detention in all prison facilities comply with the Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the provisions of the National Criminal Enforcement Act;

(c) Take the necessary measures to separate prisoners according to age, sex and reasons for detention, and to combat inmate self-rule in prison facilities;

(d) Adopt clear guidelines for situations in which children live with their mothers in detention facilities and ensure that the conditions in which they live are not detrimental to their physical, psychological, moral and social development and that they are protected from violence; and

(e) Effectively implement the National Act on Detention Registers, ensuring that registers are accessible to interested parties, including family members.

**Military jurisdiction**

38. The Committee welcomes the amendment introduced to the Code of Military Justice in 2014 to establish that abuses committed against civilians by military personnel must be tried before the ordinary criminal courts. However, the Committee is concerned about subsequent amendments to the Military Code of Criminal Procedure and the Code of Military Justice that grant military prosecutors and judges’ broad powers to search homes and public buildings and listen to private telecommunications without a warrant issued by an ordinary court (arts. 14 and 17).

39. The State party should amend the Military Code of Criminal Procedure and the Code of Military Justice in order to ensure that all cases involving violations of human rights are heard before the civil courts and that the military criminal justice system does not interfere in cases in which the victims are civilians. Victims of human rights violations perpetrated by military officers must have access to effective remedies.

**Independence of the judiciary**

40. The Committee is concerned about reports of frequent attempts to interfere with the judiciary and the public prosecution service on the part of public and private actors. It is particularly concerned about measures that weaken the salary protection afforded to judges and magistrates. It is also concerned about proposed legislative amendments that, if adopted, would undermine the independence of the judiciary and the public prosecution service in naming and announcing the appointment, transfers, promotions, disciplinary procedures and formation of office. The Committee is concerned about reports of judges and magistrates being attacked in arbitrary accusations of corruption and naming and shaming campaigns, and of
41. The State party should take immediate measures to uphold the full autonomy, independence, impartiality and safety of judges, magistrates and prosecutors and ensure that they can conduct their activities without unwarranted pressure and interference from other bodies, including the executive and legislative branches of Government, and that all judicial and due process safeguards are effectively implemented in the event of disciplinary proceedings being initiated against them. The State party should ensure that draft laws originating from within the judiciary are widely discussed with the various stakeholders and safeguard the independence and impartiality of the judiciary, and that the administrative bodies of the judiciary and public prosecution service responsible for appointing, transferring, promoting, disciplining and terminating the office of judges, are composed primarily of judges and public prosecutors elected by their peers.

Freedom of expression and association

42. The Committee regrets the high levels of intimidation and violence, including lethal violence, to which human rights defenders and journalists are exposed. The Committee welcomes the establishment of the mechanism for the protection of human rights defenders but is concerned that both the mechanism and the state-level protection units have been allocated insufficient resources; that the State party does not have a comprehensive policy promoting the implementation of effective protective and preventive measures; and that the protective measures adopted fail to take a multifaceted approach that incorporates a gender perspective. The Committee is concerned about the seriously high levels of impunity enjoyed by those who commit crimes against human rights defenders and journalists. It regrets that, as yet, no specialized unit has been established to deal with offences committed against human rights defenders and that the Office of the Special Prosecutor for Offences committed against Freedom of Expression has not been able to respond effectively to serious human rights violations, with the result that there have been very few convictions. The Committee is also concerned about the fact that legal provisions that make it illegal to express ideas and opinions remain in force in Mexico, especially at the individual state level, and that these provisions have been used to criminalize the work of journalists, whistle-blowers and human rights defenders, particularly defenders of indigenous rights, defenders of environmental rights and opponents of economic development projects and megaprojects (arts. 6, 7, 19, 21 and 22).

43. The Committee urges the State party to:

(a) Strengthen the mechanism for the protection of human rights defenders and journalists and the state-level protection units by allocating sufficient financial and human resources for their work, incorporating a gender perspective into their activities, taking action to address structural risk factors on both a reactive and preventive basis and organizing activities that increase public awareness of the legitimacy of the mechanism’s work;

(b) Strengthen the institutions responsible for law enforcement and the administration of justice, and also the administrative bodies responsible for internal oversight, so as to ensure that all attacks are investigated promptly, thoroughly, independently and impartially, that the perpetrators are brought to justice and that victims receive adequate assistance and comprehensive reparation;

(c) Ensure that guarantees of due process are upheld in cases in which human rights defenders and journalists stand accused of committing offences; and

(d) Ensure that any restrictions on the right to freedom of opinion and expression and the right to freedom of assembly and association comply fully with the strict requirements set out in articles 19 (3), 21 and 22 (2) of the Covenant.

Rights of indigenous peoples

44. The Committee notes with concern the significant number of reports that attest to licences for exploration and exploitation activities in the context of megaprojects conducted in the territories of indigenous people having been granted without the free and informed prior consent of the indigenous peoples affected having been obtained. The Committee takes note of the proposals to amend legislation, including the Constitution, in order to guarantee the right to consultation, but regrets that some judicial decisions are based on a restrictive interpretation of the principles of consultation while other court decisions ordering consultations to be carried out have not been enforced. The Committee is also concerned about reports indicating that the criteria used to determine which peoples should be considered indigenous have been interpreted very narrowly in order to justify the failure to carry out consultations (arts. 2, 25, 26 and 27).

45. The State party should ensure that meaningful consultations are held in good faith with the indigenous peoples concerned with a view to obtaining their free and informed prior consent before the adoption or application of any measure that may have an impact on their way of life and/or culture. The State party should also ensure that indigenous peoples are consulted prior to the adoption of any regulatory instrument relating to the consultations. It should redouble its efforts to ensure that the rights of indigenous peoples, particularly in relation to land, territory and natural resources, are promoted, protected and recognized in law and in practice. The State party should ensure that interpretations as to which persons are considered indigenous are based on their right to belong to an indigenous community or nation and their right to determine their own identity and membership.

D. Dissemination and follow-up
46. The State party should widely disseminate the Covenant, its two Optional Protocols, its sixth periodic report and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public, including members of minority communities and indigenous peoples.

47. In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party is requested to provide, within two years of the adoption of the present concluding observations, that is, by 8 November 2021, information on the implementation of the recommendations made by the Committee in paragraphs 19 (right to life and security of person), 23 (impunity) and 43 (freedom of expression and association).

48. In accordance with the Committee’s planned review cycle, the State party will receive the list of issues prior to reporting from the Committee in 2025, and will be expected to submit its replies to this list of issues, which will constitute its seventh periodic report, within one year. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in Geneva in 2027.
Tab. 8.
Human Rights Council
Thirty-seventh session
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Agenda item 3
Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development

Report of the Special Rapporteur on the situation of human rights defenders on his mission to Mexico*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, on his mission to Mexico from 16 to 24 January 2017.

* The present document was submitted late to reflect the most recent developments.
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** Circulated in the language of submission and Spanish only.
I. Introduction

1. The Special Rapporteur on the situation of human rights defenders undertook an official visit to Mexico from 16 to 24 January 2017, at the invitation of the Government. The main objective of the visit was to assess the situation of human rights defenders in the country in the light of the State’s obligations and commitments under international human rights law and of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders).

2. The Special Rapporteur visited various locations in Mexico City and the States of Chihuahua, Guerrero, Mexico and Oaxaca. During the visit, the Special Rapporteur met with high-level officials from the ministries of foreign affairs, the interior (including the National Security Commission), national defence; navy; environment and natural resources, as well as from the Office of the Attorney General and the Office of the Federal Attorney for Environmental Protection. He also met with senior representatives of the Senate, the Chamber of Deputies, the Supreme Court of Justice, the Council of the Federal Judiciary and the National Institute for Transparency, Access to Information and Personal Data Protection. The Special Rapporteur also had discussions with the National Human Rights Commission, state-level human rights institutions, the Executive Commission for Victim Support and the National Protection Mechanism for Human Rights Defenders and Journalists.

3. The Special Rapporteur met with more than 800 human rights defenders — 60 per cent of whom were women — drawn from 24 states and from across civil society, including lawyers, journalists and representatives of non-governmental organizations and indigenous communities.

4. Prior to his official visit, on 13 January, the Special Rapporteur participated in a forum on the role of human rights defenders in Mexico, organized by the National Human Rights Commission and the Office of the United Nations High Commissioner for Human Rights in Mexico. On that occasion, he acknowledged supportive statements made by the Minister of the Interior and the Attorney General, who recognized the active and positive role played by human rights defenders in society.

5. The Special Rapporteur thanks the Government of Mexico for its invitation and its cooperation during and continued assistance after the visit. He is grateful to the federal, state and municipal authorities who met with him. He conveys his appreciation to the staff of the Office of the United Nations High Commissioner for Human Rights in Mexico for the invaluable support it provided for the visit. He is also grateful to everyone who took the time to meet with him and share their valuable experiences and insights.

II. Legal and institutional framework

6. Mexico is a federal republic, composed of 31 federal states and the Federal District of Mexico City. Legislative, executive and judicial powers are divided along federal and state lines. Mexico has ratified nine core international human rights treaties. In this context, the Special Rapporteur encourages the Government of Mexico to accept the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. He also encourages the Government to recognize the competence of the Committee on Enforced Disappearances pursuant to articles 31 and 32 of the International Convention for the Protection of All Persons from Enforced Disappearance and to consider lifting the reservations and interpretative declarations made with regard to different treaties that can affect the full realization of human rights.

7. The Mexican Constitution protects those human rights enshrined in international treaties and recognizes social and economic rights. The Supreme Court has established that all decisions of the Inter-American Court of Human Rights are binding. National legislation,

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especially at the state level, still needs to be harmonized in order to bring it fully into line with international human rights norms and standards.

8. The Constitution provides for mechanisms to guarantee the respect of human rights, including writs of *amparo* (protection of constitutional rights), by which private individuals can challenge, before the federal courts or the Supreme Court, the conformity of decisions taken by the public authorities with constitutional provisions. The high number of *amparo* rulings concerning human rights defenders indicates the gravity of the climate in which they operate. The Special Rapporteur was informed of several cases where *amparo* rulings in favour of aggrieved human rights defenders had not been duly implemented, without any legal consequences and despite the sanctions for such non-compliance provided for in the Constitution. He urges the Government to address such cases of non-compliance, in order to uphold the rule of law.

9. In recent years, Mexico has made significant efforts to strengthen its legal system, with the participation of wider civil society. In 2008, the Constitution was amended as a part of a move from an inquisitorial, written criminal justice system to an adversarial oral-based one. The new system entered into force in 2016 and offers three advantages over the inquisitorial mode: greater transparency; increased efficiency; and stronger due process.2 This change should contribute to a more flexible and fairer criminal system, reducing delays and human rights abuses. Nevertheless, challenges have arisen with regard to efforts to fully implement the new system.

10. In 2012, Congress passed a federal law to protect human rights defenders and journalists, establishing a national protection mechanism to ensure their life, integrity, freedom and safety. In 2013, the general law on victims came into force, creating the national victim support system, the executive commission for victim support and the National Registry of Victims. Progress concerning the implementation of the general law has been slow and victims have complained of obstacles to the exercise and recognition of their rights, including red tape. Delays and shortcomings have affected both the ability of victims to access legal and financial assistance and the extent to which the 32 constituent federal entities of Mexico comply with the new law.3 Only 10 states have created their own victims’ rights commissions. In 2016, the general law was amended to address some of these challenges.

11. In 2014, in the light of a series of decisions by the Inter-American Court of Human Rights and the Supreme Court, the Military Criminal Code was amended to ensure that human rights violations and crimes against civilians are investigated and prosecuted by the civil authorities. In April 2017, the new general law on the prevention, investigation and punishment of torture and other cruel, inhuman or degrading treatment or punishment established an absolute prohibition of torture and of the use, during trials, of evidence obtained through torture. In October 2017, the Congress adopted the general law on forced disappearances committed by private individuals and the national urgent search mechanism, in order to strengthen the Mexican authorities’ ability to track and investigate disappearances.

12. The military judicial authorities retain jurisdiction regarding human rights violations committed by members of the armed forces. During his visit, the Special Rapporteur raised a number of concerns about amendments to article 29 of the Constitution and a bill on internal security, which would normalize the use of the armed forces in public security functions. Following the approval of the bill by the Chamber of Deputies in November 2017, the United Nations High Commissioner for Human Rights and six United Nations independent experts urged the Senate to reject it owing to human rights concerns relating to the leading role of the armed forces in the field of law enforcement, access to information, adequate oversight concerning intelligence gathering and the use of force during demonstrations.4

13. Nonetheless, the bill on internal security was approved by the Senate on 15 December 2017, reinforcing fears that it will result in the transfer of public security and policing duties

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3 See https://justiceinmexico.org/mexican-lawmakers-call-for-increased-oversight-of-victims-law/.
to untrained soldiers commanded by unaccountable high-ranking army officers, reduce civilian oversight and weaken accountability.\(^5\) This is regrettable, in particular in the light of reports that the success rate for the prosecution of human rights violations committed by army personnel is around 3 per cent.\(^6\)

### III. Situation of human rights defenders

14. During his visit, the Special Rapporteur focused on evaluating some of the basic elements of a safe and enabling environment for human rights defenders, namely: a conducive legal and institutional framework; access to justice; an independent and strong national human rights institution; effective protection policies and mechanisms targeting groups at risk and applying a gender-sensitive approach; non-State actors who respect and support the work of human rights defenders; and a strong and dynamic community of human rights defenders. In other words, he set out to establish whether human rights defenders were safe and empowered in Mexico.

#### A. Widespread violence

15. Despite some progress, the level of violence in Mexico remains alarmingly high, affecting the population at large. The country faces challenges related to drug cartels and organized crime groups. As mentioned above, the use of the army in a public security role raises a number of concerns in terms of democratic governance and its effectiveness with regard to ending violence.

16. Since 2006, Mexico has been affected by serious human rights violations, including extrajudicial killings, torture and enforced disappearances.\(^7\) During his visit, the Special Rapporteur received many credible complaints and testimonies from human rights defenders that indicated that widespread violence and human rights abuses continued. During the first 10 months of 2017, the National Human Rights Commission recorded 285 attacks on human rights defenders, including instances of harassment, assault, robbery and cybercrime. Civil society data indicate that 730 human rights violations were committed against human rights defenders from January to May 2017.

17. Distressingly, in most of those cases, investigations were either not carried out or did not yield results. Human rights defenders suffer intimidation or obstruction when seeking justice and are at particularly high risk, especially if they have denounced abuses by the armed forces and law-enforcement agencies.

18. Besides the harrowing uncertainty of not knowing the whereabouts of their loved ones, family members of disappeared persons often face obstacles in their search for justice and truth. In the State of Guerrero, human rights defenders looking for their disappeared family members sometimes carry out searches at great risk to their own security. Human rights defenders from Chilapa, where collective disappearances appear to have occurred with the acquiescence of the authorities, are particularly vulnerable to attacks in the context of organized crime and corruption. When the Special Rapporteur visited Escuela Normal Rural Raúl Isidro Burgos, a teacher-training college in Ayotzinapa, the parents of 43 disappeared students stressed the importance of ensuring that the follow-up mechanism to the Interdisciplinary Group of Independent Experts and the non-governmental organizations that support it could continue their work unhindered.

19. Throughout his visit, the Special Rapporteur also received testimonies from human rights defenders working on cases of extrajudicial killings and excessive use of force, in

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particular regarding the risks facing them in the quest for accountability. In the State of Oaxaca, he met with survivors of the violence that took place during large-scale teachers’ protests in June 2016. Both those survivors and affiliated human rights defenders can only be considered to be protected when justice has been served, the perpetrators held accountable and the jailed protesters released. Following the visit, those groups continued their quest through activism and peaceful protests.

20. Human rights defenders denouncing torture have also faced virulent and false accusations that they support criminals. Smear campaigns, including through the national media, tried to portray them as profiting from reparations. Women torture victims who became courageous human rights defenders faced sexist defamation and harassment campaigns against themselves and their families, as, for example, occurred with the human rights defenders who denounced sexual torture in the Atenco case.

21. The Special Rapporteur also met with human rights defenders who were internally displaced owing to security issues. The Government should formulate policies addressing the situation of those human rights defenders, in order to ensure that they can carry out their human rights work in safety and return to their homes.

B. Criminalization of human rights work

22. The activities of human rights defenders in Mexico have been criminalized through the deliberate misuse of criminal legislation and the manipulation of the punitive powers of the authorities by both State and non-State actors, in order to hinder and even halt efforts to exercise the legitimate right to promote and protect human rights.

23. Such criminalization usually begins with the filing of unfounded allegations or complaints against human rights defenders that relate to criminal offences and that may not be in line with the principle of legality or comply with international human rights standards. Multiple forms of human rights violations then follow, including judicial harassment, prosecution on trumped-up charges, double jeopardy, detention without a court order and inhuman conditions of detention. Lengthy legal proceedings are used as a tool to intimidate human rights defenders and impede their human rights advocacy activities. Courts reportedly impose preventive measures on human rights defenders without respecting their rights and due process guarantees.

24. Criminalization is sometimes preceded by statements by public officials accusing human rights defenders of committing crimes, endangering national security or hindering economic development. Such disparaging statements by high-level officials can trigger or aggravate prolonged criminal processes against human rights defenders.

25. Arbitrary arrests and detentions have been used to silence dissident voices and curb social movements. Since August 2014, the Working Group on Arbitrary Detention has issued at least seven opinions relating to cases of human rights defenders and journalists in Mexico who were arbitrarily detained and whose judicial processes were marred by irregularities. The opinions point to a pattern of violations against human rights defenders in retaliation for carrying out legitimate human rights work. To date, the Government has not fully implemented all the opinions.

26. In many cases, human rights defenders are punished for reporting violations by public authorities and face retaliatory attacks or criminal proceedings against their families. Martha Esthela Solórzano from Sonora faced repeated threats from the municipal police following her complaints against the police for abuse of power, corruption and ill-treatment. In 2012, her son, Jorge Luis Zavala Solórzano, was arrested and sentenced for allegedly committing

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12 See opinions No. 24/2017, No. 23/2017, No. 19/2015 and No. 23/2014.
serious crimes. In February 2015, after an ordeal lasting years, Mr. Zavala Solórzano was released and acquitted by the Supreme Court of the State of Sonora on the basis of clear contradictions between the allegations made against him and testimony used as a basis for his initial conviction.

27. The criminalization of human rights work has a chilling effect, not only on human rights defenders, but also on wider society: it weakens social movements and discourages members of the public from filing complaints with the police concerning serious crimes. Human rights defenders increasingly have to spend a great deal of time and resources defending themselves, which weakens their ability to protect more vulnerable individuals in society. Moreover, criminal proceedings have a stigmatizing and delegitimizing effect, aimed at isolating defenders and hindering actions of solidarity with the national and international community.

28. Such criminalization also undermines civil society’s trust in the Mexican authorities, which should be working to ensure that State and non-State actors do not manipulate the public and judicial powers in order to harass human rights defenders for their legitimate activities. The resulting climate of fear affecting society at large can lead to self-censorship.

29. It appears that the criminalization of human rights work relates to the actions of both federal and state elements, including the police, the army, the navy, government authorities and the judiciary. The low level of independence of the judiciary, corruption among public officials and the exploitation of the justice system by companies and other parties, who make criminal complaints against human rights defenders, all contribute to the criminalization of human rights work.

30. International human rights law provides that both State and non-State actors who are directly or indirectly involved in such criminalization are accountable for these violations. The Special Rapporteur strongly recommends reviewing and revising laws and policies, the ambiguous nature of which has been exploited to criminalize legitimate human rights work, and bringing their content and implementation into line with international human rights norms and standards.

31. The freedom of peaceful assembly is guaranteed by the Mexican Constitution. However, increased interference and use of force by public officials at peaceful protests, in particular, demonstrations relating to sensitive issues or against large-scale projects, give cause for concern. For example, in 2006, protests in Atenco against the construction of Mexico City Airport resulted in the killings of 2 persons and the detention and criminalization of more than 200 persons, including several women, who were subjected to sexual torture. The protests against the project continued, with demonstrators facing frequent harassment. Following a December 2012 protest in Mexico City, nearly 100 arbitrary detentions and 6 cases of torture were documented. In some states, such as the State of Puebla, local legislation allows police to use firearms or deadly force to break up protests.

32. Furthermore, broad terms employed in domestic legislation, such as “disturbance of public order”, are increasingly being exploited to curtail peaceful assemblies. Indigenous communities protecting their traditional lands from plans to develop mega-projects and exploit natural resources have often faced criminal charges for protesting against those plans, even where meaningful and prior consultation with them were lacking. Such situations have arisen in the context of social protest, involving blockades or sit-down demonstrations.

33. Journalists covering protests also face a pattern of violence, harassment and legal action. For instance, in August 2016, journalist Manuel Morres was detained for 24 hours while reporting on demonstrations in Chiapas and two photojournalists covering a traffic incident in Oaxaca were arrested and allegedly tortured.

34. Even though the freedom of association is also constitutionally recognized, a diverse range of active non-governmental organizations sometimes face violence, including threats and killings. Independent trade unions reportedly face interference from government

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authorities. The right to unionize came under serious threat following a series of reforms in the education, health and energy sectors that significantly reduced the power of the unions in each sector. The reforms sparked national protests, with civil servants leading major demonstrations.

35. Despite improvements to the constitutional guarantees of freedom of expression, journalists who voice critical views often face intimidation and threats. Mexico has become one of the world’s most dangerous places for journalists. Inter-American Commission on Human Rights and United Nations experts have referred to a crisis for freedom of expression in Mexico, involving killings and disappearances, physical and psychological attacks on the media and other forms of interference designed not only to harm individual journalists but also the public’s right to know. Due to the climate of insecurity and widespread impunity at the state and municipal levels, self-censorship has become rife. Many newspapers in violent areas fear reprisals if they publish stories on organized crime, drug trafficking or corruption.

36. Increased use of defamation laws by public officials has undermined press freedom. Politicians often sue media professionals for “moral damages”. For example, the former Governor of the State of Coahuila sued a prominent political journalist and filed a civil defamation suit against a newspaper. A Supreme Court ruling of May 2016 regrettably removed maximum limits on financial penalties that can be levied against journalists. While defamation was decriminalized at the federal level in 2007, around a dozen states still have criminal defamation laws and use them to intimidate journalists.

37. The establishment of the office of the special prosecutor for offences committed against freedom of expression to investigate cases involving journalists was a welcome development. However, civil society criticized the office for failing to make significant progress in investigations. Between July 2010 — when the office was set up — and November 2015, it reported only 31 investigations into homicides and a further 25 into disappearances of journalists, none of which led to prosecutions. Coordination between the office and local investigative prosecutors at the federal and state levels appears to be weak and marred by inefficiency and overlap. The office’s resources appear to be decreasing, while crimes against journalists are on the increase. Data show that the office’s allocated budget fell by 58 per cent between 2013 and 2017.

38. Mexico enacted legislation on access to information in 2002. Access to the Internet became a human right following the amendment of article 6 of the Constitution in 2013. In 2015, the General Law on transparency and access to public information was adopted following a process involving broad civil society participation. In January 2017, Mexico enacted a new General Law on the protection of personal data. The Government informed the Special Rapporteur of how this progressive legislation sought to establish principles and procedures guaranteeing the right to access information in the possession of any public authority and to develop uniform conditions regarding transparency and information access at the federal, state and municipal levels. The new national institute for transparency, access to information and protection of personal data was granted constitutional and specialized autonomy to carry out its functions.

39. Despite the legislative achievements to date, actually accessing public information remains challenging, particularly at the state and municipal levels. Human rights defenders fighting impunity also face challenges in accessing public information in the possession of the armed forces. Representatives of civil society also raised concerns about the incompatibility of existing legislation on access to information with that on national security, since the former stipulates that information on grave human rights violations and crimes against humanity may not be classified as “reserved”, while the latter defines what constitutes “national security”. The scarcity of data obstructs investigations into criminal accountability

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14 See www.ituc-csi.org/inter-american-commission-on-human.
for enforced disappearances and summary executions in the context of military operations related to public security and organized crime.

40. Despite civil society’s concerns about the negative impact of the new General Law on archives on the right to truth and collective memory related to serious human rights violations, the legislation was approved by the Senate in December 2017.

41. Unsupervised secret surveillance of human rights defenders is a new and worrying challenge, especially in the context of weak judicial oversight regarding the collection, storage and sharing of personal data obtained through digital surveillance. After the visit, the federal and some state authorities were accused of purchasing and deploying spyware called “Pegasus” to monitor politicians, human rights defenders, journalists and lawyers through their mobile telephones. The Special Rapporteur reiterates his and other United Nations experts’ call from July 2017 for an independent and impartial investigation to be carried out into the alleged illegal surveillance, which constitutes a serious violation of the rights to privacy and to the freedoms of expression and association.

C. Intimidation, harassment and stigmatization

42. The majority of human rights defenders the Special Rapporteur met during the visit confirmed that they had experienced intimidation, harassment and stigmatization at the hands of State and non-State actors in retaliation for their human rights work. Defenders are intimidated or threatened through text messages, telephone calls or verbal assaults.

43. They also reported receiving threats through social media platforms or email. In the majority of cases, the messages served as “warnings” about their safety and security if they continued their human rights work. Even though the authorities rarely considered such messages as “real” threats, human rights defenders feared they might lead to physical aggression. Women human rights defenders in particular are targeted by anonymous groups, who spread false rumours through social media or incite violence against women, including “corrective rape”.

44. The number of smear campaigns against human rights defenders, whether orchestrated by politicians or the media, raises serious concerns. These campaigns mainly seek to undermine the work of human rights defenders and to isolate them. Human rights defenders are portrayed as being anti-development, or as criminals, rather than as activists. Particularly worrying is the situation of organizations such as Centro Prodh, Tlachinollan and the Mexican Commission for the Defence and Promotion of Human Rights, which face accusations and harassment as a result of their work on enforced disappearances, extrajudicial killings and torture. The Special Rapporteur was deeply concerned at the acts of reprisal against one human rights defender, who received threats through social media mentioning a meeting with the Special Rapporteur. He strongly condemns acts of reprisal, as they undermine the exercise of the right of all to cooperate with international organizations.

45. Stigmatization also has a gender component when aimed at women human rights defenders, portraying them as prostitutes or as immoral. The relatives of human rights defenders and members of their communities may also be intimidated or harassed, in order to force those human rights defenders to choose between protecting their relatives and continuing their work.

46. Malicious software, hacking, denial-of-service attacks and other high-tech forms of intimidation are increasingly being used to target human rights defenders. For instance, the website of the Más de 131 collective suffered several denial-of-service attacks.

47. Human rights defenders from indigenous or rural communities point to the deliberate use of divide and rule tactics by the authorities and companies in order to achieve the approval of large-scale projects. The divisions caused by these projects have profound and negative

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effects on the strong culture of consensus and collective solidarity in affected communities. The Special Rapporteur concurs with other United Nations experts who have observed that violence and harassment related to mega-projects authorized on indigenous lands without prior consultation and consent raise major human rights violations for indigenous peoples in Mexico.19

D. Widespread and persistent impunity

48. Approximately 98 per cent of crimes in Mexico remain unsolved.20 Given the high number of serious human rights violations, the negligible success rate of investigations and prosecutions of crimes against human rights defenders has engendered a sense of widespread and persistent impunity. The failure to investigate and sanction perpetrators sends a dangerous message that such crimes have zero consequences, creating an environment conducive to serial violations and undermining the general aspirations for human rights in Mexico.

49. The Inter-American Commission on Human Rights observed that Mexico was affected by “critically high levels of impunity” and that “the failure to provide access to justice has created a situation of structural impunity whose effect is to perpetuate, and in some cases foster, the repetition of gross human rights violations”.21 Following country visits, at least five United Nations special procedures highlighted the prevailing climate of impunity regarding grave crimes and human rights violations in Mexico.22 In the last five years, five United Nations treaty bodies have urged Mexico to address persistent and widespread impunity.23

50. Regrettably, impunity has become both the cause and the effect of the overall insecurity of human rights defenders in Mexico. Impunity feeds the criminalization of legitimate human rights activities, which in turn fuels attacks against human rights defenders and creates fear in wider civil society. By deterring human rights defenders from filing complaints and survivors of violations from seeking their support, impunity erodes the rule of law in the country and encourages further violations.

51. The Special Rapporteur is seriously concerned at the scope, persistence and effect of impunity with regard to threats to the safety of human rights defenders and the criminalization of their activities. He urges the Government of Mexico to urgently tackle the growing trend of increasingly entrenched impunity in the country.

E. Specific groups of human rights defenders at risk

52. During the visit, the Special Rapporteur observed multiple risks and threats facing specific groups of defenders. The large number of women human rights defenders he met in Mexico demonstrates that women are often at the forefront of human rights battles, even if their role is not sufficiently recognized or publicized.

53. Between 2010 and 2017, more than 43 women defenders and journalists were killed in Mexico and at least 5 women activists were killed in 2017.24 There have also been assassination attempts and assaults. Mexico has reportedly become “the most violent country

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19 See A/HRC/35/32/Add.2, paras. 82–85; see also www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22411&LangID=E.
23 See CMW/C/MEX/CO/3; CAT/C/MEX/CO/5-6; CEDAW/C/MEX/CO/7-8; CRC/C/MEX/CO/4-5; and CRPD/C/MEX/CO/1.
24 Inputs received from civil society in Mexico after the visit, September 2017.
for women human rights defenders in Mesoamerica”, where a total of 1,360 attacks against women defenders were carried out between 2013 and 2016 (on average, one a day).  

54. The majority of women human rights defenders also face risks linked to their gender, including sexual violence and threats on social media or smear campaigns based on gender stereotypes.

55. In the context of widespread violence against women and femicides, some women have become vocal in the search for truth, justice and reparation, often facing enormous risks in the process. Maria Luisa García Andrade was the victim of countless threats and attacks in Ciudad Juárez for her work against impunity. Yndira Sandoval Sánchez faced threats and a campaign of stigmatization orchestrated by the authorities of the State of Guerrero aimed at undermining her formal complaint concerning the sexual violence she had suffered in September 2017. On 29 June 2017, labour rights activist Meztli Omixochitl Sarabia was killed in her office in Puebla, following numerous threats and assaults. On 10 May 2017, a leader of the Collective of Missing Persons in San Fernando, Tamaulipas, was shot 12 times as a result of her investigation into disappearances involving the Los Zetas drug cartel.

56. Because they challenge the patriarchy and misogyny, women human rights defenders may also face violence and discrimination within their own families and communities. Their advocacy work is often considered as being less important than or inconsistent with the social and cultural role assigned to them. The psychosocial impact of violence has profound consequences on the social fabric and can take a variety of forms, ranging from post-traumatic stress syndrome, guilt and economic hardship to social isolation.

57. The Special Rapporteur acknowledges the work of networks such as the National Network of Women Human Rights Defenders in Mexico, which are crucial in helping women break the cycle of violence and stigmatization and which offer opportunities for self-defence and capacity-building training.

58. The Special Rapporteur was struck by the high number of women human rights defenders who had experienced discrimination by State agents or difficulties when requesting protection. He urges the Mexican authorities to tackle this trend and to widely publicize General Assembly resolution 68/181 on protecting women human rights defenders.

59. As mentioned, journalists constitute one of the main groups at risk in Mexico. According to the statistics, Mexico ranks among most dangerous countries for journalists. Between 2000 and 2016, at least 120 journalists were killed in Mexico, mostly in the states of Veracruz, Oaxaca, Tamaulipas, Guerrero and Chihuahua. More than 12 journalists were murdered in the country in 2017.

60. Journalists also face violence when covering protests, threats from organized crime groups and harassment from the authorities for carrying out investigative journalism. Carmen Aristegui was dismissed by MVS Radio in March 2015, after reporting on political corruption. Miroslava Breach, a reporter for the La Jornada newspaper, was shot eight times outside her home in Chihuahua on 23 March 2017. Another prominent journalist, Javier Valdez, was shot 12 times on 15 May 2017 outside his workplace in Culiacán, while three journalists, including Gumaro Pérez Aguilando, were killed in the State of Veracruz.

61. Among the most criminalized human rights defenders are those who promote economic, social and cultural rights, particularly indigenous and environmental activists who work in the context of extractive, energy or infrastructure mega-projects.

62. The Special Rapporteur met with human rights defenders who faced reprisals because of their work on child abuse or access to health care for HIV/AIDS patients. As observed by the Special Rapporteur on the human rights to safe drinking water and sanitation, civil society and community representatives were also criminalized due to their protests in relation to access to water and contamination of water sources (see A/HRC/36/45/Add.2, para. 62).

63. The Special Rapporteur met academics from more than 10 higher education institutions, who shared their important work on human rights in Mexico. He also heard many
examples of how universities contribute to access to justice through legal clinics and of how they support victims of disappearances through forensic and investigative work. Some universities faced retaliation for their human rights work, while others failed to support staff and students involved in such work as part of their academic activities. Universities have a duty to ensure an enabling environment in which anyone can promote human rights.

64. Civil society data show that the types of mega-projects that involved the most attacks against land and environmental rights defenders included hydraulic (17), mining (10), infrastructure (8), and hydroelectric projects (7). The States of Mexico, Sonora, Oaxaca, Puebla, Colima and Campeche accounted for more than two thirds of registered attacks.26 In its report on its 2016 mission to Mexico, the Working Group on the issue of human rights and transnational corporations and other business enterprises reviewed four cases involving development projects and observed a lack of human rights due diligence in the form of adequate prior consultation with affected communities (see A/HRC/35/32/Add.2, para. 38).

65. Community leaders and land and environmental rights defenders who oppose large-scale projects face violence from individuals linked to companies participating in those projects. Such violence often goes unpunished and is tacitly or openly supported by the local authorities. Civil society organizations documented at least 109 cases of attacks against environmental rights defenders in 23 Mexican states between May 2014 and June 2015. As long as the approach to development is not broadly agreed on with affected communities, the number of social conflicts related to land and environmental protection will continue to increase.

66. The situation of indigenous human rights defenders is extremely worrying. The rise in the number of development projects and land seizures in some states has led to the escalation of conflicts, as indigenous communities refuse to give up their ancestral lands, which are often considered to be sacred and essential to these communities’ existence and cultures. This situation was highlighted during a visit to the community of San Francisco Xochicuautla, which is engaged in a struggle to preserve its traditional lands in the context of highway construction.

67. The Special Rapporteur heard credible testimony from communities about violence perpetrated by armed groups, operating in collusion with local authorities and companies. Visiting the State of Chihuahua, he witnessed the risks facing human rights defenders protecting the rights of the indigenous Raramuri people, a community threatened by organized crime groups and lacking State protection. On 19 January 2017, he condemned the killing of Isidro Baldenegro López.27 This murder, together with the killing of Juan Ontiveros 15 days later, demonstrate the precarious situation of human rights defenders in the state. In 2010, Ernesto Rábago Martínez, another defender of the Raramuri people’s rights, was murdered. To date, no one has been convicted of those killings.

68. Along with linguistic and geographical obstacles that prevent them from effectively benefiting from protection measures, human rights defenders from indigenous communities face harassment, arbitrary detention, torture, enforced disappearance and summary execution. Indigenous leaders, farmers and environmentalists are pressured to cease their activities through use of the criminal justice system to prosecute them for ordinary crimes.

69. During his visit, the Special Rapporteur observed the link between social conflicts and the failure to duly consult with indigenous peoples. In many instances, consultations were mere formalities in the context of projects that had already been rolled out. While on her visit to Mexico, the Special Rapporteur on the rights of indigenous peoples reiterated concerns about how consultation had been conceived and implemented in Mexico and recalled that Mexico was obligated to consult indigenous peoples about any activity or legislative and administrative measure that could affect them, in line with the standards contained in the Indigenous and Tribal Peoples Convention, 1989 (No. 169), of the International Labour

Organization, the jurisprudence of the Inter-American Court of Human Rights and the United Nations Declaration on the Rights of Indigenous Peoples.28

70. The search of families for their disappeared relatives constitutes one of the most difficult human rights issues in Mexico. Many families who have not obtained responses concerning the situation of their missing relatives carry out their own investigations and searches for clandestine graves. Their search for truth and justice has led them to face countless risks and threats, as they often uncover stories of collusion between public officials and organized crime groups. They also become vulnerable because they carry out investigations into and advocate against human rights violations.

71. The Special Rapporteur was moved by the testimonies of courageous mothers, fathers, siblings, sons and daughters, who had become human rights defenders out of necessity. Likewise, human rights defenders who have been searching for their disappeared family members for decades, since the “dirty war”, should be acknowledged. Their activities should be recognized as a part of broader human rights work. The national brigades for the search for disappeared persons and the broader movement of families of the disappeared have helped to prevent many disappearances.

72. Whistle-blowers are particularly at risk. Even though existing legislation protects the right of journalists to inform the public of cases involving fundamental rights, there is no such protection for those who, owing to their post, may have access to information on issues such as corruption, health, security or the environment. There is no legal framework in Mexico that defines, recognizes and protects ordinary citizens or public servants who disclose information. On the contrary, whistle-blowers may be prosecuted, especially if they reveal information related to transnational or public sector companies.

73. In his 2015 report, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression encouraged States to adopt or revise and implement national laws protecting the confidentiality of sources and to adopt or revise and implement national legal frameworks protecting whistle-blowers (see A/70/361, paras. 61 and 63).

74. The Special Rapporteur on the situation of human rights defenders is also concerned about the risks faced by human rights defenders working on migrants’ rights. As Mexico is a country of origin, transit, destination and return of migrants and their families, the work of human rights defenders has become increasingly important with regard to the protection of these populations. Human rights defenders providing humanitarian assistance to migrants and those activists working along the route of the “beast” train face particular risks, mainly due to the activities of organized crime, trafficking and armed groups, who target both migrants and defenders through extortion, rape, kidnapping and murder. Migrant rights advocacy carries additional challenges in terms of access to information and the participation of surviving family members in investigations. Migration officials and private security companies are known for harassing and delegitimizing the work of migrant activists (see CMW/C/MEX/CO/3, para. 21).

75. Defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons have also been targeted by campaigns designed to stigmatize them, heightening the climate of fear in which many of them live. Attacks against lesbian, gay, bisexual, transgender and intersex rights activists are usually related to efforts to promote recognition of their rights. Prejudices based on sexual orientation and gender identity held by police officers and prosecutors reduce the effectiveness of investigations into attacks on such activists. The assassinations of such activists are not investigated as hate crimes, neither is the lesbian, gay, bisexual, transgender or intersex rights activism of the victims usually taken into account. Moreover, the authorities often denigrate victims in an attempt to trivialize attacks. Transgender rights defenders often face increased risks due to the higher levels of sexual violence against transgender persons, sometimes resulting in their murder, as was the case with transgender activist Jennifer López in Ometepec, in the State of Guerrero. In many states, defenders of lesbian, gay, bisexual, transgender and intersex persons’ rights face problems when attempting to organize, use public spaces or access resources and are ignored.

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by local and state authorities. They may also feel isolated from the broader community of human rights defenders.

IV. National Protection Mechanism for Human Rights Defenders and Journalists

76. The Special Rapporteur acknowledges the establishment, in 2012, of the National Protection Mechanism for Human Rights Defenders and Journalists, in order to address security concerns that arose among human rights defenders due to persistent attacks against them and to ensure their safety and enabling conditions for their work. The Mechanism’s governing board is composed of four government entities, including the Office of the Attorney General and the Federal Police.

77. At the time of the visit, the Mechanism had provided protection to 386 human rights defenders and 260 journalists. The Mechanism, the cooperation it fosters between authorities and civil society, its decision-making procedures and its day-to-day operations are seen as examples of good practice for other countries. The very existence of the Mechanism confirms the valuable role played by human rights defenders in society and the need for the Government to afford them protection. Consequently, the Mechanism deserves the support of all stakeholders.

78. Despite the success of the Mechanism in preventing some violations against human rights defenders, as a policy tool it has not brought about an enabling environment for human rights defenders. To date, the Mechanism has been somewhat reactive in nature. Civil society pointed out the lack of coordination between federal and state authorities to ensure optimal protection on the ground, and a lack of funding for protective measures both at the federal and state levels.

79. The Mechanism’s focus has been on delivering piecemeal security measures, rather than on adopting a broader approach to protection and it has not sufficiently addressed the root causes of threats. This undermines the effectiveness of the Mechanism’s protection measures and may place strain on its capacity due to the large number of cases of unsolved human rights violations. It is also important to consider the collective element of protection for human rights defenders, who are often embedded in the social fabric of their community. Risk analyses and related protection measures should reflect human rights defenders’ social and communal needs, ensuring a more comprehensive approach to security in the long-term. The Mechanism should also address reports of a lack of medical and psychological care for human rights defenders.

80. As part of a more preventive approach, the Mechanism should enhance cooperation with other entities to ensure that protection measures go hand in hand with prompt and exhaustive investigations. If investigations into attacks against human rights defenders continue to stall owing to a climate of impunity, no protection scheme will be sufficient to prevent further rights violations.

81. The promotion of the role of human rights defenders should be a central aspect of the work of the Mechanism: public campaigns and other tools should be used to increase public awareness of that role, both at the federal and state levels.

82. The Declaration on Human Rights Defenders provides for a broad approach when defining the term “human rights defender”. In this vein, the Mechanism should apply a wide set of criteria when determining who qualifies for protection. Online attacks against human rights defenders should be treated as seriously as physical acts of aggression.

83. Despite the progress made regarding its risk assessment methodology, the Mechanism would benefit from a more differential approach to human rights defenders. In particular, any gender-specific approach needs to include a comprehensive review of the different types of risks and violence facing women human rights defenders. The Mechanism should employ women staff members who are properly trained to deal with such risks. In addition, specific protection measures for women human rights defenders are required, such as women security guards and tools to address the effects of sexual violence. Concrete actions are also needed to help women human rights defenders overcome stigmatization and delegitimization.
84. The integration of a multicultural and collective approach to risk analysis relating to indigenous communities or human rights defenders should contribute to the adoption of protection measures that are relevant and effective in their settings. Rural or remote settings require different approaches from urban ones. For instance, panic buttons and satellite phones are not always tailored to the needs of rural human rights defenders. Policies in line with the Guiding Principles on Internal Displacement should be adopted to cater for the needs of displaced human rights defenders. Risk analyses covering family members and, in particular, children, should be offered to all human rights defenders. User-friendly manuals containing security assessment methodology, procedures and existing guidelines should be made available online to ensure improved access for human rights defenders.

85. The Special Rapporteur urges the Office of the Attorney General to draw on its participation in the work of the Mechanism to ensure that crimes against human rights defenders are duly investigated. This also applies to cases involving online attacks and smear campaigns run through social media networks, which require specialized investigation. The Federal Police should guarantee that an adequate number of properly trained police, including women officers, are available to provide protection on behalf of the Mechanism. The Mechanism should also cooperate with other security actors, such as the army and the navy, to enhance the security of the human rights defenders under its protection.

86. Cooperation and coordination with state-level authorities should be bolstered, in particular given that the majority of attacks against human rights defenders originate at the state level. These authorities should adopt a zero-tolerance approach towards attacks against human rights defenders. The National Conference of State Attorneys General should, in consultation with civil society, adopt specialized protocols for the prevention and investigation of violence against human rights defenders.

87. The two early warning systems set up jointly by the Mechanism and the authorities of the States of Veracruz and Chihuahua represent an interesting tool for addressing structural issues relating to the environment in which human rights defenders operate. Those early warning systems have yet to deliver results and require greater cooperation and coordination between the three levels of government in Mexico. The Special Rapporteur recommends evaluating the systems’ effectiveness periodically, carrying out follow-up actions and expanding them to other states, depending on the situation on the ground.

88. Any future state-level protection mechanisms for human rights defenders should have adequate resources and proper guidelines and structures allowing for the participation of civil society. The Special Rapporteur acknowledged the establishment of a protection mechanism in Mexico City following a law adopted in 2015, which encompassed such good practices as provision of access to economic and social rights.

89. Efforts to improve the staffing situation within the Mechanism should be further strengthened. Staff should be hired based on selection criteria that ensure that they are aware of human rights issues and should be given suitable employment contracts. Managerial tools should be adopted regarding the timely implementation of protection measures and the evaluation of service delivery. The Mechanism should be allocated a budget that is sufficient to meet its needs and ensure financial sustainability.

V. National and local human rights institutions

90. National human rights institutions are key partners in promoting the right to defend human rights and, as human rights defenders, they sometimes face risks for carrying out their independent mandate.

91. Mexico has a complete system of human rights institutions, including the National Human Rights Commission and the 32 state-level human rights institutions. The Special Rapporteur recommends that the state-level institutions follow the example of the National Human Rights Commission by seeking to fully comply with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and by establishing specialized entities focusing on the right to defend human rights.
92. Human rights institutions should be more vocal in both condemning attacks against and supporting human rights defenders. They also need to work more closely with human rights defenders in order to provide increased support in its various forms. In line with international standards, human rights institutions should apply broad definitions of the terms “human rights defender” and “journalist” and work to ensure that the authorities and wider society are aware of the important role played by human rights defenders.

93. The National Human Rights Commission has increasingly used its constitutional mandate to challenge the constitutionality of laws and should be encouraged to continue along this path. State-level institutions should also review and challenge laws with the potential to restrict the recognition and exercise of human rights.

94. The Special Rapporteur recognizes the importance of the general recommendations issued by the National Human Rights Commission and calls for this practice to be replicated at the state level. He was surprised to observe the low number of recommendations, precautionary measures or statements issued in some states, despite the evidence indicating high numbers of serious violations against human rights defenders. He therefore urges state-level human rights institutions to be more active in this regard. He also calls on the Commission to put in place a follow-up mechanism for the implementation of its general and specific recommendations.

95. The Special Rapporteur acknowledges the risks faced by members and employees of the National Human Rights Commission and state-level institutions as a part of their human rights work. In that context, the Special Rapporteur expressed his outrage at the killing, in November 2017, of Silvestre de la Toba Camacho, an ombudsperson in the State of Baja California Sur, and called on the Mexican authorities to carry out a thorough investigation and to bring the perpetrators to justice. National human rights institutions have observed that the indifference of the three levels of government favoured conditions that violated the rights of human rights defenders.

96. The Government of Mexico should consider the work of its federal and state-level human rights institutions as protected activity in defence of human rights, in line with the Declaration on Human Rights Defenders. The Special Rapporteur urges the Government of Mexico to set up protection schemes designed to allow human rights defenders to perform their mandated functions in a safe and independent manner.

VI. Role of non-State actors

97. The Special Rapporteur was informed of the negative impact that the actions of enterprises (in particular those operating in the mining, construction, infrastructure, energy, telecommunications, security, transport and media sectors) have on communities across Mexico and on the work of human rights defenders.

98. Public and private companies must respect human rights and internationally accepted principles relating to business and human rights, including the Guiding Principles on Business and Human Rights. Companies should publicly recognize and respect the positive role of human rights. They must refrain from actions that could, in any way, negatively affect the enjoyment of human rights. As observed by the Working Group on the issue of human rights and transnational corporations and other business enterprises, companies in Mexico should have incentives to clearly and publicly distance themselves from acts of violence and intimidation and to conduct their own human rights due diligence, lest they incur financial and reputational costs (see A/HRC/35/32/Add.2, para. 85).

99. Any company involved in a project or projects that might affect indigenous communities should promote prior and meaningful consultations with them; refrain from taking actions that can affect these consultations, including actions that can contribute to the division of communities; and offer all the relevant information on the projects concerned to the affected people in an accessible and culturally appropriate way.

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100. Employees of security companies in different states, charged with guarding infrastructure projects and railroads, act against victims of human rights violations and their defenders, such as migrants’ rights defenders and indigenous rights defenders. The Special Rapporteur understands that those attacks remain unpunished and that these companies are not facing sanctions due to the use of force.

101. Mexico is about to finalize its national programme on business and human rights. During the visit, the Special Rapporteur recommended that the programme should incorporate a strong component on the responsibility of international and Mexican enterprises to support human rights defenders and to prevent criminalization or other forms of targeting of human rights activities, including with regard to indigenous and community rights defenders. Human rights defenders should be involved in the design, implementation, monitoring and evaluation of the programme.

102. In July 2017, the Civil Society Focal Group on Business and Human Rights in Mexico announced, in a letter to the Working Group on the issues of human rights and transnational corporations and other business enterprises, the withdrawal of its support for the latest draft National Programme on Business and Human Rights. The concerns raised in the letter included the absence of “solid mechanisms for the protection of human rights defenders, journalists and whistle-blowers” and the fact that companies are not urged to publicly condemn attacks and intimidation against those actors. The Special Rapporteur acknowledges the Government’s efforts to develop the Programme through consultation with broader civil society. Stressing the significance of the recommendations made in the letter, he encourages the Government to engage with civil society organizations in order to address gaps in the final Programme and to gain strong recognition and support from all stakeholders in Mexico.

103. Defenders of the rights of lesbian, gay, bisexual, transgender and intersex persons and sexual and reproductive rights have reported that religious groups have, at times, undermined their efforts to ensure the wider recognition of these rights. In addition, through their actions and statements, religious groups have created a climate of harassment in which advocates of such rights are targeted. Reports also indicate that the secular nature of the State is not fully respected because of the close relationship between certain religious groups and political/economic actors. This situation allows such groups to exert undue influence over the authorities in order to promote the adoption of decisions, including legal amendments, which can adversely affect the enjoyment of human rights.

104. Due to the patriarchal structure of some religious groups, women human rights defenders working within them have to contend with very low visibility and obstacles, despite playing a central role in promoting human rights in various environments.

105. The Mexican authorities have recognized the challenge the country faces in the form of organized crime groups, who pose serious security challenges to human rights defenders. Sometimes human rights defenders and families searching for disappeared relatives come up against such groups and corrupt officials. Members of organized crime groups are sometimes hired by actors to attack human rights defenders who oppose their interests. Collusion between organized crime groups and the authorities is one of the most disturbing elements contributing to attacks against human rights defenders in Mexico. Despite the risks, a number of human rights defenders and journalists continue to denounce the infiltration of state institutions by organized crime groups, especially attorneys’ offices and the police.

VII. Community of human rights defenders

106. Meeting with more than 800 human rights defenders from 24 states reinforced the Special Rapporteur’s impression that Mexican civil society is diverse and vibrant. During those meetings, he stressed that human rights defenders also have a role to play in contributing to a safe and enabling environment. They are responsible for conducting their

work professionally, in a peaceful and non-discriminatory manner, and with due respect for international human rights principles.

107. The Special Rapporteur reiterates that formal and informal networks that connect human rights defenders and supporters to each other are a key factor in protection (see A/HRC/31/55, para. 60). Such networks allow human rights defenders to share information, coordinate actions, express solidarity, pool resources and provide psychosocial support. Strong relationships allow rapid mobilization in times of crisis and mitigate the risks of threats and attacks.

108. However, a number of human rights defenders informed the Special Rapporteur that they remained isolated from broader networks due to the specific nature of their work or their remote location. The Mexican human rights movement should strengthen networks outside the capital and metropolitan cities and reach out to rural and isolated human rights defenders, who are often more exposed to risks. In order to remain inclusive, civil society organizations should regularly assess the extent to which they connect with and support marginalized, stigmatized and geographically isolated human rights defenders. Solidarity and a unified voice are key to the safety and empowerment of human rights defenders.

109. Furthermore, human rights networks were understandably concerned at the immediate threats and risks faced by their members. It is critical that sufficient attention be paid to the comprehensive review of their safety and security, including through root-cause analysis, risk assessment and stakeholder mapping.

110. It is also essential that human rights defenders continue to make full use of international and regional human rights mechanisms when reporting human rights violations and seeking protection and redress.

VIII. Conclusion and recommendations

111. The Special Rapporteur’s mandate was established, among other things, to support official efforts to improve the full recognition and protection of human rights defenders. It was in that spirit that he conducted his visit to Mexico and has presented the present report. The Special Rapporteur was dumbfounded by the extreme violence in Mexico, the climate of near-absolute impunity and the alleged corruption and infiltration of the prosecutorial and security forces by criminal elements. At the same time, he was positively surprised by the resilience of human rights defenders and their courage in seeking truth, justice and reparation.

112. There will be no noticeable improvement in the situation of human rights defenders as long as impunity remains persistent and rife. Meanwhile, success in the fight against impunity will depend on overcoming the challenges of corruption, organized crime and continued militarization of public security.

113. In December 2018, the international community will celebrate the twentieth anniversary of the Declaration on Human Rights Defenders. This could be an opportunity to halt and reverse the slide of Mexico into the spot of the most dangerous country in the world for human rights defenders. The Government of Mexico should show political will and bring all relevant actors together at a national summit dedicated to the protection and empowerment of human rights defenders. The protection of human rights defenders should be made a national priority.

114. In order to facilitate such a process, the Special Rapporteur puts forward a series of recommendations, which should primarily be considered by relevant actors at all three levels of government in Mexico. He has a number of recommendations for other actors.

115. The Special Rapporteur recommends that the Government of Mexico:

(a) Strengthen the rule of law in the country, especially through full implementation of writs of amparo and other judicial orders issued in connection to human rights defenders and their work;
(b) Publicly recognize, at the federal and state levels, the pivotal role played by human rights defenders and journalists in society and condemn human rights violations committed against them and attempts to discredit them;

(c) Ensure prompt and impartial investigations into threats and violence against human rights defenders, bring to justice those guilty of perpetrating or aiding and abetting in crimes and provide reparations to the survivors of those crimes;

(d) Through the Office of the Attorney General, consider creating, at the federal and state levels, specialized entities to investigate cases of violence against human rights defenders and to coordinate with other prosecutorial offices;

(e) Review the working methods, jurisdiction criteria and results of the office of the special prosecutor for offences committed against freedom of expression, in order to strengthen the Office’s impact;

(f) Formulate investigation protocols into online crimes committed against human rights defenders and ensure mechanisms are in place to prevent illegal online surveillance;

(g) Fully implement international resolutions, recommendations and precautionary or urgent measures issued by United Nations human rights mechanisms, the Inter-American Commission on Human Rights or the Inter-American Court of Human Rights relating to human rights defenders;

(h) Ensure that civil society actors are meaningfully consulted during legislative debates affecting human rights and that their views are given due consideration;

(i) Avoid adopting legislation and revise laws that restrict the rights to freedom of association, expression and peaceful assembly, including those establishing ambiguous definitions of related crimes such as “disturbance of public order”;

(j) Develop, adopt and evaluate comprehensive public policies aimed at preventing human rights violations against women human rights defenders, as well as measures that both address the structural causes contributing to the risks they face and are adapted to the needs of different groups, such as indigenous peoples and women human rights defenders;

(k) Adopt public policies for the protection of internally displaced human rights defenders that cater for their socioeconomic needs and operate in coordination with victim-support schemes;

(l) Guarantee sufficient budgetary and human resources for the functioning of the National Protection Mechanism for Human Rights Defenders and Journalists at the federal and state levels, including for protection measures on the ground and for the specific protection needs of women human rights defenders;

(m) Engage in meaningful consultations regarding projects with affected indigenous communities and guarantee that their free, prior and informed consent is sought and obtained in line with international norms and standards;

(n) Ensure that foreign and Mexican investors and enterprises meet their human rights responsibilities and sanction companies associated with human rights violations against human rights defenders, both at home and abroad;

(o) Integrate gender and community perspectives into all policies and ensure the participation of women and communities in decision-making processes related to the promotion, protection and empowerment of human right defenders, including in the context of the National Protection Mechanism for Human Rights Defenders and Journalists;

(p) Develop a legislative framework concerning the protection of whistleblowers;

(q) Take advantage of the twentieth anniversary of the Declaration on Human Rights Defenders in 2018 to launch a public campaign on human rights defenders,
including a multi-stakeholder summit to establish the protection and promotion of human rights defenders as a national priority.

116. The Special Rapporteur recommends that the National Human Rights Commission and the state-level human rights institutions:

(a) Include, within their programmes of work, specific activities on the protection and promotion of human rights defenders;

(b) Continue or begin compiling and analysing statistics on the number of complaints received, cases monitored and recommendations adopted on the safety and security of human rights defenders;

(c) Establish a focal point for human rights defenders with decision-making powers in each institution;

(d) At the state level, adopt and contribute to preventive and protection measures for human rights defenders, as well as develop means for the public recognition of human rights defenders.

117. The Special Rapporteur recommends that United Nations organizations and agencies:

(a) Support and reach out to human rights defenders, including those who are particularly at risk in Mexico;

(b) Formulate and implement strategies and action plans to strengthen the participation and protection of human rights defenders and to prevent violations against them, including within the framework of the Sustainable Development Goals and the Human Rights Up Front initiative;

(c) Develop and implement mechanisms for follow-up to the recommendations and opinions of the United Nations and regional human rights mechanisms on the situation of human rights defenders in Mexico;

(d) Monitor, document and respond to cases of alleged acts of reprisal against human rights defenders for cooperating with United Nations agencies and human rights mechanisms;

(e) Provide technical and advisory services to the Government of Mexico with regard to the implementation of recommendations and opinions issued concerning the situation of human rights defenders.

118. The Special Rapporteur recommends that higher education institutions include in their programmes and activities the promotion of human rights, engage in actions to address the serious human rights challenges faced by Mexico and refrain from hindering the exercise of fundamental human rights in the higher education sector.

119. The Special Rapporteur recommends that enterprises and other non-State actors:

(a) Respect ethical and legal obligations, including human rights due diligence, the Guiding Principles on Business and Human Rights and the Voluntary Principles on Security and Human Rights;

(b) Refrain from carrying out verbal stigmatization or legal intimidation of or physical attacks against human rights defenders, directly or through public or private security companies;

(c) Conduct human rights impact assessments for all large-scale projects, ensuring the meaningful participation of and consultation with affected communities and human rights defenders;

(d) Disclose information related to planned and ongoing large-scale development projects in a timely and accessible manner to affected communities and environmental human rights defenders, as well as establishing complaint mechanisms;
(c) Ensure that subcontractors respect the rights of indigenous peoples and affected communities and establish accountability mechanisms to address their grievances.

120. The Special Rapporteur recommends that religious groups refrain from stigmatizing human rights defenders, and recognize the important role of faith-based human rights defenders, especially women defenders.

121. The Special Rapporteur recommends that civil society:

   (a) Ensure that self-protection measures are strengthened and made accessible to specific human rights defenders at risk and in remote locations;

   (b) Address the issue of discrimination against women and lesbian, gay, bisexual, transgender and intersex rights defenders within broader human rights movements;

   (c) Take full advantage of United Nations and regional mechanisms for the promotion and protection of human rights defenders.

122. The Special Rapporteur recommends that the international community:

   (a) Facilitate and host events to enhance the visibility and recognition of human rights defenders at risk;

   (b) Support and provide temporary shelter to human rights defenders at risk and their families;

   (c) Raise awareness of the positive role of human rights defenders and share good practices that have been effective concerning their protection;

   (d) Regularly meet with and support human rights defenders, especially those living in remote areas;

   (e) Publicly scrutinize and condemn violations of the rights of human rights defenders;

   (f) Provide technical assistance to enhance the protection and psychosocial welfare of human rights defenders.
Tab. 9.
Human Rights Council
Thirty-second session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions in follow-up to his mission to Mexico

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, on an analysis of the progress made by Mexico in implementing the recommendations made following his official visit to Mexico from 22 April to 2 May 2013 (A/HRC/26/36/Add.1). The recommendations in the Special Rapporteur’s mission report were aimed at enhancing the protection of the right to life and strengthening accountability for violations of that right.

During the period under review, extrajudicial killings and excessive use of force by security officers persisted. Vulnerable groups remained susceptible to violence and killings and continued to lack adequate protection in law and in practice. The Government of Mexico has introduced measures in an attempt to reduce homicides, tackle impunity, reduce the militarization of public security, improve institutional coordination and information-gathering in investigations of human rights violations and provide legal protection to vulnerable groups; however, efforts need to be intensified and properly implemented in practice. Arbitrary deprivation of life and impunity remain serious challenges in Mexico, as do reparations for the victims, which require political will and concerted efforts.
Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions in follow-up to his mission to Mexico*

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* Circulated in the language of submission and Spanish only.
I. Introduction

1. The present report contains an analysis of the progress made by Mexico in implementing the recommendations made by the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, following his visit to the country from 22 April to 2 May 2013. The mission report (A/HRC/26/36/Add.1) was submitted to the Human Rights Council at its twenty-sixth session in June 2014.

2. During his visit to Mexico, the Special Rapporteur observed that the right to life was under serious threat in the country as a result of various factors, including deficiencies in the legal system, increased organized crime activity and drug trafficking, militarization of policing, unwillingness or lack of capacity of police and prosecutors to investigate, distrust in the judicial system by citizenry and lack of accountability for violations.

3. The Special Rapporteur made recommendations in the following broad areas: legal and policy framework for the protection of the right to life; promoting accountability for past and present human rights violations; ending militarization of public security; ensuring civilian jurisdiction for human rights violations; adopting comprehensive standards on the use of force by law enforcement officials; protecting human rights while combating organized crime; and protecting the right to life of vulnerable groups.

II. Methodology

4. In paragraph 8 of its resolution 26/12, the Human Rights Council urged States to, inter alia, cooperate with and assist the Special Rapporteur in the performance of his or her tasks, supply all necessary information requested by him or her and ensure appropriate follow-up to his or her recommendations and conclusions, including by providing information to the Special Rapporteur on the actions taken on those recommendations.

5. In follow-up to his mission to Mexico, the Special Rapporteur requested information from the Government of Mexico and other actors on the steps taken to implement his recommendations. The Government responded on 28 September 2015 and a draft of the present follow-up report was submitted to the Government for comments on 15 March 2016. The Government submitted its comments on 13 April 2016.

6. The Special Rapporteur thanks the Government of Mexico for providing information on the measures taken to implement the recommendations contained in his mission report and for its response to the present report. He also expresses his gratitude to all who contributed to the present report.

III. General observations

7. In his mission report, the Special Rapporteur highlighted the disturbing levels of violence in Mexico and the widespread extrajudicial executions perpetrated by security forces and members of cartels, while underscoring the prevalence of impunity for those crimes. He recommended that the protection of the right to life, including the issue of accountability, should have a central place in the national human rights plan, under development (para. 120). In responding to that recommendation, the Government of

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1 Unless otherwise indicated, paragraph numbers in parentheses refer to the paragraphs of the mission report (A/HRC/26/36/Add.1).
Mexico indicated that all actions envisaged in the National Human Rights Programme 2014-2018 were aimed at achieving the conditions in which human rights violations could be prevented and human rights for all realized. Non-governmental sources observed that the Programme did not include objectives or strategies to promote accountability for unlawful killings; nor did it set out indicators for recording the number of prosecutions for human rights violations. The Special Rapporteur regrets not having received specific information about the measures provided for in the Programme to protect the right to life and ensure accountability for the violation thereof.

IV. Legal and policy framework for securing the right to life

A. Constitutional and international law bases

8. The Special Rapporteur observed in his previous report that Mexico had instituted important legal and policy changes and commended it for the 2011 constitutional reform that granted human rights enshrined in international treaties equal status to the Constitution; however, he stressed that more needed to be done at the structural and implementation levels to prevent the unlawful loss of life. He recommended that pending federal and state legislation should be enacted to ensure the effective implementation of the reform on human rights. Proposals submitted to the Federal Congress that could weaken the reform’s progressive clauses should be rejected. The pro homine principle should be retained and protected and the parity between international and national law should be reinforced (para. 93).

9. The Government, in its reply, informed the Special Rapporteur about the activities undertaken to bring the reform into effect, including efforts to strengthen the implementation process, the training of public servants and the dissemination of information on the reform. The National Human Rights Programme 2014-2018 had entered into force and a permanent round table for the revision of the administrative normative framework and harmonization with the human rights constitutional reform has been established. In its reply, the Government’s did not specify whether legislation had been enacted to implement the reform. Other reports indicate that the harmonization of federal and state legislation with the 2011 constitutional reform remains insufficient. With regard to the parity between international and national human rights law, the Government reported that the Supreme Court of Justice had adopted decision 293/2011, according to which the human rights enshrined in the Constitution and those ratified in international treaties have equal legal standing and together constitute the parameters for ensuring constitutional regularity. In the decision, the Supreme Court also noted the binding character of the jurisprudence of the Inter-American Court of Human Rights. The Special Rapporteur welcomes those developments; however, it should be noted that the decision proceeds to establish that, if the Constitution provides for an express restriction of the exercise of human rights, the constitutional restriction will prevail, effectively overriding the application of the pro homine principle. The Special Rapporteur notes with concern the Supreme Court’s jurisprudence on the issue, which has the effect of re-establishing the regime of constitutional supremacy.

10. The Special Rapporteur welcomed the reforms aimed at transforming the country’s semi-inquisitorial system into an oral, adversarial system of criminal justice. Nonetheless, he noted the slow progress made in its implementation and recommended its acceleration at the federal and state levels (para. 94). The Government reported on the initiatives

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2 Mexico, Supreme Court of Justice, Contradicción de Tesis 293/2011, 3 September 2013, p. 96.
undertaken to implement the reform of the criminal system, including: (a) the provision of training to the judiciary and police; (b) the adoption of a national agreement to assist with harmonizing the normative framework; (c) the agreement on collaboration between several government, judicial and police departments to coordinate capacity-building activities on the new criminal system; and (d) the creation in 2012 of the unit for the implementation of the accusatory criminal procedural system within the Office of the State Attorney General, which was further strengthened under agreements A/068/12 (Official Journal, 17 April 2012), A/182/14 (12 February 2015), A/032/15 (15 May 2015) and A/037/15 (1 June 2015). The National Criminal Procedure Code was published in March 2014 to govern the accusatory system and harmonize criminal procedures at the federal and state levels. With regard to the rate of implementation, the system operated fully in 6 federal entities and partially in the other 25. At the local level, the new system was operational in eight states. The Government expected the accusatory system to have entered into force across the country by June 2016. Non-governmental sources observed that the federal entities that had implemented the system had not yet comprehensively reformed their inquiry and justice administration practices, as required. The Special Rapporteur welcomes the progress made and notes the need for the full implementation of the new criminal system.

B. Problems of continued militarization

Moving away from the military paradigm in law enforcement

11. In his previous report, the Special Rapporteur had criticized Mexico for the fact that the armed forces were tasked with public security functions, observing the risk of abuse by agents unable to relinquish the military paradigm and the lack of accountability for such abuses in the military justice. He recommended that all necessary steps be taken, with immediate effect, to ensure that public security was upheld by civilian rather than military security forces (para. 103).

12. The Government indicated that the participation of the army, navy and air force in upholding public security was in accordance with article 129 of the Constitution and legal opinion 38/2000, under which the military is constitutionally empowered to exercise public security functions to support competent authorities. Non-governmental sources reported that, in some federal entities, military officials had been placed in charge of public security.

13. The Special Rapporteur regrets the lack of progress in the implementation of the recommendation and points to a series of tragic events that recently placed the armed forces at the centre of accusations of extrajudicial executions. In June 2014, 22 civilians were killed in Tlatlaya, State of Mexico, in a confrontation between armed civilians suspected of being involved in organized crime and the army. While Mexican authorities stated that all the deaths had occurred as part of a “shoot-out”, military documents revealed that there was a standing order to “kill the criminals”. The National Human Rights Commission later established that at least 12 of the victims, and possibly as many as 15, were extrajudicially killed following their capture. Other cases reportedly involving military officials include the enforced disappearance and killing of seven individuals in the municipality of Calera, State of Zacatecas, in July 2015, and the killing of a 12-year-old boy in Santa María Ostula, State of Michoacán, in July 2015.


14. In his mission report, the Special Rapporteur took note of the government plan to create a national gendarmerie as part of its strategy to reduce violence. He noted the need for the gendarmerie to function within a human rights framework and recommended that it be created by law, that its officers be properly trained to conduct public security tasks according to international human rights standards and that they be subject to effective civilian accountability measures and directed by civilian personnel without military backgrounds (para. 106). The Government reported that a gendarmerie consisting of 5,000 officers had been established within the Federal Police in August 2014 and was mandated to prevent crime and ensure public security and governed by principles of respect for individual and human rights. While the gendarmerie was a division of the Federal Police, officers had also received military training. The Special Rapporteur views as a positive development the fact that the gendarmerie was established outside the military jurisdiction and that human rights, among other principles, govern its mandate. However, its mandate is not regulated by law, as he had recommended. The Special Rapporteur regrets not having received information on whether gendarmes receive specific training on human rights or on the measures in place to ensure accountability for possible abuses.

Ending military jurisdiction in cases involving crimes against civilians and human rights violations

15. The Special Rapporteur voiced concern that military courts were used in Mexico to try military personnel for homicides involving civilians. He recommended that the Code of Military Justice be amended to ensure that all human rights violations allegedly perpetrated by the military were fully investigated, prosecuted and tried by civilian authorities; that the immediate transfer of all such cases to civilian jurisdiction be ensured; and that military investigators not initiate investigations into human rights violations (para. 105).

16. The Government replied that article 57 of the Code of Military Justice had been amended in 2014 to ensure that military courts had no competence to investigate and punish human rights violations committed by military personnel. Between 2012 and August 2015, 1,592 inquiries, 19 of which were into human rights violations, and 349 criminal proceedings were transferred to civilian jurisdiction. Other sources observed that the reform excluded human rights violations committed against military personnel by military personnel. The Inter-American Court of Human Rights ruled that the reform did not fully comply with international human rights standards. Other sources raised concerns regarding how military investigations could affect civilian investigations. While the Special Rapporteur acknowledges the amendment of article 57 and the transfer of relevant cases to civilian courts, he regrets to learn about the exceptions retained in the reform that conflict with his recommendation.

C. Further legislative needs

Legal framework for the use of force

17. The Special Rapporteur expressed concern at reports of the disproportionate use of force by law enforcement officials during protests or arrests and noted the absence of a coherent legal framework in that field. He recommended that the Constitution be amended
to approve a general law on the use of force — including during demonstrations and arrest — that applies to all federal, state and municipal security forces according to the highest international human rights standards (para. 107).

18. The Government responded that National Security Commission’s agreements 04/2012 and 05/2012 established general guidelines for the use of force by public security officials. In 2014, the Ministry of Defence had issued a manual on the use of force for the armed forces. The Office of the State Attorney General had issued guidelines for the detention of persons by its officials (A/079/12) and for the use of force by Ministerial Federal Police (A/080/12). Security forces were also guided by the relevant international instruments. However, according to non-governmental sources, the 2013 Mexico City Police crowd control protocol contained problematic provisions, such as those allowing for a restrictive approach to assemblies and prioritization of the right to transit over the right to assembly, granting broad powers for police intervention during protests and giving ambiguous descriptions of situations in which the use of force was allowed. The implementation of that protocol had reportedly resulted in several persons being arbitrary detained and injured.

19. The Special Rapporteur was informed about recent cases of the excessive use of force by the police during demonstrations or gatherings. In July 2014, the police fired bullets towards demonstrators in the community of San Bernardino Chalchihuapan, State of Puebla, killing a child and injuring six persons. The police had reportedly based its actions on the 2014 Act to Protect Human Rights and Regulate the Legitimate Use of Force by Police Officers of the State of Puebla, which granted broad powers for police intervention and the use of lethal force during protests. In September 2014, 3 persons had been killed and 43 students disappeared in Iguala, State of Guerrero, following joint operations by the municipal police and armed men against 80 students from the Raúl Isidro Burgos rural teacher-training college. In January 2015, 10 persons had died and 21 had been injured during a protest in Apatzingán, State of Michoacán. While officials indicated that the victims had died in a confrontation between self-defence groups, the National Human Rights Commission established that serious human rights violations were committed by police agents resulting in five cases of deprivation of life and one extrajudicial execution.

20. The Special Rapporteur regrets the lack of implementation of the recommendation and the ensuing episodes of excessive use of force and extrajudicial killings by the army and the police.

**Homicide and the organized crime law**

21. The Special Rapporteur stressed the lack of clarity regarding who is empowered to investigate and prosecute homicides linked to organized crime, which often results in federal authorities failing to take action. He recommended that the Federal Act on Combating Organized Crime be amended to include homicide as one of the offences that could be connected to organized crime (para. 108). The Special Rapporteur regrets that he has not received official information on whether that recommendation has been implemented; other sources reported that it had not.

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22. The Special Rapporteur recommended that homicide cases allegedly linked to organized crime be transferred to federal jurisdiction by reforming the federal law to allow federal authorities to investigate, prosecute and try such cases where the state authorities were not in a position or are unwilling to do so (para. 109). The Government replied that, while article 73 (XXI. b) of the Constitution empowered the Union Congress to enact laws relating to organized crime, until such law was enacted the Federal Act on Combating Organized Crime continued in effect; thus, the federal entities retained their jurisdiction in the field. Other sources indicated that the authorities had not implemented the requested reform. The Special Rapporteur regrets the lack of progress in connection to the recommendation.

D. Need to ensure a more robust legal and law enforcement system

Ensuring proper investigations

23. The Special Rapporteur noted that federal and state authorities had regularly been accused of failing to properly investigate cases of alleged killings, dismissing homicide cases suspected of links with organized crime and manipulating the crime scene or planting evidence to incriminate others, particularly when a State actor was implicated. With regard to the latter accusation, he recommended that all necessary steps be taken to ensure that the authorities did not alter crime scenes and to guarantee that authorities who obstructed investigations were held accountable, if need be through criminal prosecution (para. 104).

24. The Government replied that the National Criminal Procedure Code regulated the chain of custody and the responsibilities for evidence seized in connection to a crime. Under article 225 of the Federal Criminal Code, it was an offence against the administration of justice for public officials to manipulate the investigation, evidence or scene of a crime, or enable others to do so. The Office of the State Attorney General had issued agreement A/009/15 (Official Journal, 12 February 2015) laying down guidelines to be observed by public servants in relation to chains of custody, evidence and crime scenes. In November 2015, the Executive Secretariat of the National Public Security System had published the National Guide on the Chain of Custody, which aimed to guarantee the authenticity of material evidence to be used in criminal proceedings. The Office of the State Attorney General had also signed agreements on collaboration with 19 federal entities for the standardization of regulatory criteria in this field.

25. Other sources observed that the manipulation of the crime scene remained a recurrent factor in cases involving extrajudicial killings. The Tlatlaya massacre and the May 2015 killing of 42 civilians and a policeman in Tanhuato, State of Michoacán, following a police raid against an alleged organized crime cell were two recent examples where security forces have been accused of having manipulated the crime scene. Past incidents of crime scene manipulation or falsification also remained unpunished, as in the extrajudicial killing of two college students by military personnel in Monterrey in March 2010 (see A/HRC/26/36/Add.1, para. 45). The Special Rapporteur regrets that, despite the regulatory framework, the authorities continue to engage in such practices with impunity.

26. The Special Rapporteur raised the alarm about the number of cases where the investigative authorities failed to adequately preserve and transfer remains, making them inadequate for victim identification and court proceedings. While he was impressed by the work of the forensic services in Mexico City and Chihuahua, he noted a lack of expertise

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and independence in other states and insufficient coordination of forensic services across states. He recommended the creation of a national forensic services institution with autonomous status, which would provide its services to all parties and authorities that took part in federal and/or state trials, to the human rights commissions and to civilians. He also recommended that it should have adequate infrastructure, sufficient human and financial resources and standardized protocols that applied nationally (para. 98).

27. The Government gave information about the work of the Directorate General of Forensic Medicine Services, the General Office for the Coordination of Expert Witness Services, which provides support to local prosecutor offices, and the Criminal Investigation Agency of the Office of the State Attorney General (A/101/13: Official Journal, 25 September 2013). Furthermore, all forensic services in the country must follow the protocol for forensic treatment and identification. In November 2014, all the High Courts of Justice in the country had agreed to promote the National Programme to Enable and Support Forensic Medical Services as a programme of national priority. In November 2015, the Executive Secretariat of the National Public Security System had published the national protocol for police with prosecuting capacity, which provided guidelines for the implementation of the forensic methodology. While the Special Rapporteur welcomes these initiatives, he notes that they should not aim to replace the establishment of a much needed independent and autonomous national forensic services institution. He learned through other sources that proposals had been submitted to the Senate for the establishment of a national forensic services institution.12

28. The Special Rapporteur underlined in his mission report the importance of creating digital and interlinked databases inter alia in the areas of fingerprinting, DNA, genetics, unidentified remains and missing persons. As violence in Mexico had an important regional component, he emphasized the need to seek collaboration in that area. He recommended that Mexico work with countries in Central America to establish shared databases on fingerprints, DNA, genetics, missing persons and unidentified remains (para. 110).

29. The Government responded that the Office of the State Attorney General had concluded cooperation agreements with the Jalisco Institute of Forensic Sciences and the prosecutor offices of 11 states to exchange genetic data that would update the National Genetic Database (Official Journal, 20 November 2014). It had also created the Special Prosecutor for the Search for Disappeared Persons (A/094/15; Official Journal, 10 September 2015), issued the protocol for the search for disappeared persons and investigation of the crime of enforced disappearance (Official Journal, 23 September 2015) and signed an agreement with the International Committee of the Red Cross for the licensing and use of software for the Ante Mortem and Post Mortem database, which facilitated the search for disappeared persons and the identification of remains (although other sources noted that the database was not yet complete). Furthermore, the state prosecutor offices had met to draft the protocol for forensic treatment and identification. The Special Rapporteur welcomes the steps taken to improve the search for and identification of disappeared persons and the collection of genetic data at the domestic level. He regrets to learn that no regional database fulfilling the requirements spelled out in the recommendation exists.

30. The Special Rapporteur recommended the creation of a consolidated public database containing information on homicides disaggregated by state, county, gender, age and other relevant criteria in order to facilitate the design of effective public policy strategies and to

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promote accountability (para. 99). The Government replied that the National Institute of Statistics and Geography, in collaboration with the National Public Security System, collected national statistics on public security, including in a public database containing information on homicidal deaths, which allowed for searches disaggregated by federal entity, municipality, sex, age, civil status, nationality and indigenous language, inter alia.\(^\text{13}\) Furthermore, the Institutional System of Statistical Information (created by agreement A/018/12; Official Journal, 7 February 2012)\(^\text{14}\) collected statistical information regarding the investigations and criminal proceedings of the Office of the State Attorney General. The Special Rapporteur takes note of this comprehensive database.

**Enhancing institutional independence**

31. The Special Rapporteur voiced concern at accusations of the lack of independence of the judiciary, contributing to impunity and insufficient sentences against prosecuted state actors or members of organized criminal groups. He also observed the fear of intimidation, threat and attack against prosecutors or other judicial authorities.

32. With regard to the Office of the State Attorney General, the Special Rapporteur recommended that secondary legislation be adopted in order to make the Office fully independent of the executive branch according to the new constitutional framework (para. 95). The Government replied that the Chamber of Deputies had approved a decision in 2014 establishing the Act on the Attorney General of the Republic, which grants it constitutional autonomy. The Act was presented to the Senate in March 2016, where it is pending approval.

**Assisting witnesses, victims and their families**

33. The Special Rapporteur noted with dismay the accounts received of witness intimidation, as well as of reprisals and threats against families of victims by state authorities or organized criminal groups. He also observed that witnesses and families were reluctant to trust public officials or protection programmes, often seeing them as ineffective or susceptible to corruption. The Special Rapporteur emphasized that the Government should provide greater protection for families of victims and welcomed the adoption of the Victims Act and the National Criminal Procedure Code, which included protective measures for victims. He recommended the prompt and effective implementation of the Victims Act, including at the local level, and the full and representative participation of civil society and victims in the implementation and functioning of the Act (para. 122).

34. The Government reported that the Act had been published in 2014 (Official Journal, 28 November 2014) and had established the National Victim Support System to coordinate and formulate public policy and the Executive Commission for Victim Support as an operative organ thereof. In May 2015, the National Victim Support System had approved the Programme for Comprehensive Victim Support, which coordinated measures to protect victims’ rights. In November 2014, the Executive Commission for Victim Support had established the Fund for Comprehensive Assistance and Reparation to deliver assistance and reparation to victims. The Fund received by law 0.014 per cent of programmed authorized expenditure under the national budget. The Fund assets as of December 2015 amounted to 985.1 million pesos. In 2015, 47 million pesos had been used to provide assistance and reparation for 130 direct and indirect victims of federal crimes and human rights violations committed by federal authorities. Seven states had created executive commissions for victim support, with technical, operational and resource autonomy. Six

\(^{13}\) See www.inegi.org.mx/sistemas/olap/proyectos/bd/continuas/mortalidad/defuncionesshom.asp?s=est.

\(^{14}\) Reformed under agreement A/084/15 (Official Journal, 5 October 2015).
other states had state commissions that were dependent on the state’s government. The laws of the States of Guerrero and Michoacán were harmonized with the Victims Act, but they had not yet established a state commission. The State of Chihuahua had adopted the Act to Assist and Protect Victims of Crime, as well as a fund devoted to the same purpose. The remaining states were in the process of harmonizing their legislation with the Victims Act.

35. Non-governmental sources observed that the Victims Act was in its initial stages of implementation and had not substantially improved access to truth, justice and reparations for violations of the right to life. One of the main factors hampering its effectiveness was the requirement of a court ruling or a recommendation from a human rights institution for a person to be considered a victim of a human rights violation. The Special Rapporteur welcomes the various steps taken at the federal and state level to implement the Act but notes the remaining obstacles hampering victims’ access to assistance and reparation.

36. The Special Rapporteur recommended that a stigmatization of victims of violence never occur and that public statements by government officials on the legality of killings not be made without proper consideration of the facts (para. 121). The Government replied that the Victims Act included the principle of non-criminalization, according to which authorities should not stigmatize or treat victims as suspects or express judgment about their possible connection to a crime. Furthermore, the official circular C/004/2009 of the Office of the State Attorney General instructed its personnel not to disclose information about possible perpetrators of federal crimes or the modus operandi of organized criminal groups. Other sources pointed to the continued practice of the criminalization and stigmatization of victims who had been deprived of their lives. The Special Rapporteur regrets that the government reply relates to activities that predate the country visit and is insufficient to update him on the status of the implementation of the recommendation. He also regrets to learn that instances of stigmatization and criminalization of victims continue to occur.

E. Human rights institutions

37. The Special Rapporteur stressed the need to strengthen the capacities and autonomy of the National Human Rights Commission and 32 state human rights commissions, and noted the insufficient commitment from the authorities and the unsatisfactory rate of compliance with the Commission’s recommendations. He recommended that the human rights commissions made more use of their powers granted by law to follow up on their recommendations where prosecutions for homicide were at stake (para. 97).

38. The Government responded that the Commission was to conduct an administrative and operative redesign in 2015 to strengthen its work, although it did not give details of the status of that restructuring. The Special Rapporteur regrets that he did not receive sufficient information to assess compliance with the recommendation. Information received from civil society indicates a lack of progress thereon.

39. The Special Rapporteur also recommended that the public defender system be made independent from the executive branch at the federal level and in all states, that its infrastructure be improved and that sufficient human and financial resources be allocated in order to uphold the principle of equality of parties within the criminal justice system (para. 96). The Government replied that the 2008 constitutional reform mandated the Federation, states and Mexico City to guarantee the existence of a quality public defender system and a professional career for public defenders. On resource allocation, it noted the

15 Victims Act, arts. 65, 67, 69 and 110. The Act can be interpreted so as to allow the Executive Commission for Victim Support to recognize a person’s status as victim.
proposed cooperation agreement between the Council of the Federal Judiciary and the Office of the State Attorney General for the allocation of Council resources to the federal public defender offices located within the buildings of the Office of the State Attorney General. Other sources stressed the continuing scarcity of resources and the poor quality of representation provided by the public defender system in Mexico. The Special Rapporteur regrets the insufficient progress made in that field.

F. Legacy of the “Dirty War”

40. The Special Rapporteur expressed dismay at the total absence of effective prosecutions following the so-called “Dirty War”, in which a large but unknown number of persons had been executed. He recommended that the extrajudicial executions and massacres committed during that period be duly investigated, prosecuted and tried, that the perpetrators be punished and that the victims and their relatives receive adequate reparation (para. 100). The Government replied that the General Investigation Coordination Office of the Office of the State Attorney General was processing 247 inquiries for crimes committed during that period, including homicides, arbitrary detentions and disappearances. The Office of the State Attorney General specific agreement A/089/15 offered a reward for information on enforced disappearances (Official Journal, 12 October 2015). To ensure transparency, the Office of the State Attorney General allowed the families of the disappeared, civil society organizations and public human rights institutions access to prosecution proceedings. Concerning reparations, the Victims Act provided for comprehensive reparation for victims, including measures of restitution, rehabilitation, financial compensation and guarantees of non-recurrence.

41. Non-governmental sources observed the lack of progress in investigations and prosecution of extrajudicial executions committed during the Dirty War. While noting the information about inquiries conducted by the Office of the State Attorney General, the Special Rapporteur regrets that they have not yet resulted in effective prosecution and sanctioning of perpetrators and redress for victims.

42. The Special Rapporteur stressed his concern that many of these crimes were considered to have expired as a result of the statute of limitations imposed by the country’s interpretative declaration to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, under which the Convention only applies to crimes committed after 2002. He recommended withdrawing the interpretative declaration as it undermined the effectiveness of efforts to investigate, prosecute and try the extrajudicial executions and massacres committed during the so-called Dirty War (para. 102). The Special Rapporteur regrets not having received updates from the Government regarding the recommendation, while other sources indicated that it had not been implemented.

43. The Special Rapporteur observed that the work of the Truth Commission in the State of Guerrero, established in 2012 to investigate violations committed there during the Dirty War, had been hampered by its lack of access to information compiled by the Office of the State Attorney General. He recommended that the Truth Commission receive all the support needed to ensure that it succeeded and that the documentation assembled by the Office of the State Attorney General regarding executions during the Dirty War be made available, if not publicly, then at least to the members of the Truth Commission (para. 101). The Government recalled that, according to existing norms, the power to investigate those crimes fell solely to the public prosecutor and that the information stemming from its investigations was considered confidential. The National Criminal Procedure Code only allowed access to such investigations to the parties relevant to the case. Despite confidentiality and data protection requirements, the Office of the State Attorney General
had lifted the restrictions on disclosure of information in order to furnish the Truth
Commission of Guerrero with a list of inquiries initiated by the defunct Office of the
Special Prosecutor for Social and Political Movements of the Past, 16 of which were now in
the hands of the General Investigation Coordination Office of the Office of the State
Attorney General.

44. Non-governmental sources observed that the information collected by the Office of
the State Attorney General on crimes committed during that period could not be accessed
by citizens unless they filed a public information request, which seldom resulted in access
to complete records. Moreover, in 2015, the National Archives restricted public access to
records on the Dirty War, limiting the scope of a decision adopted in 2001 to declassify
Dirty War files. While the Special Rapporteur is pleased to learn that the Office of the State
Attorney General has shared relevant information with the Truth Commission of the State
of Guerrero, he regrets to hear of the restrictions placed on public access to records on the
Dirty War.16

V. Vulnerable and frequently targeted groups and individuals

45. The Special Rapporteur observed with concern the high number of killings of
vulnerable persons and recommended that full, prompt, effective, impartial and diligent
investigation of homicides perpetrated against women, migrants, journalists and human
rights defenders, children, inmates and detainees and lesbian, gay, bisexual and transgender
individuals be ensured (para. 111). The Government replied that, in addition to the
implementation of the new adversarial accusatory system, eight protocols had been issued
by the Supreme Court to facilitate the judiciary’s compliance with human rights
obligations, including with regard to: (a) children and adolescents; (b) indigenous peoples;
(c) the gender perspective; (d) sexual orientation and gender identity; (e) persons with
disabilities; (f) migrants and persons subject to international protection; (g) torture and ill-
treatment; and (h) development and infrastructure.

46. With regard to femicides, the Office of the State Attorney General had established
the Office of the Special Prosecutor for Violent Crimes against Women and Trafficking in
Persons and published a protocol for ministerial, police and expert investigations with a
gender perspective for the crime of femicide (Official Journal, 3 March 2015), which
established minimum rules for undertaking investigations in connection to that crime. In
addition, the National Commission for the Prevention and Eradication of Violence against
Women monitored the Comprehensive Programme to Prevent, Care, Sanction and
Eradicate Violence against Women.

47. The following entities of the Office of the State Attorney General prosecuted crimes
against migrants: the Special Prosecutor for the Search for Disappeared Persons; the
Special Unit for the Investigation of Trafficking of Persons, Children or Organs; the Office
of the Special Prosecutor for Violent Crimes against Women and Trafficking in Persons;
the Special Unit for the Investigation of Kidnapping; the General Coordination Office for
the Investigation and Prosecution of Crimes relating to Trafficking; the Unit for the
Investigation of Crimes against Migrants; and the Mexican External Support Mechanism
for Search and Investigation.

48. Concerning journalists, the Office of the Special Prosecutor for Offences Committed
against Freedom of Expression (FEADLE) had expanded its response capacity through a
series of reforms published in May 2013. The Mechanism for the Protection of Human

16 See www.jornada.unam.mx/2015/03/11/politica/009n2pol.
Rights Defenders and Journalists coordinated work in that field in collaboration with the Office of the State Attorney General, the Ministry of the Interior, the Secretariat Ministry of Foreign Affairs, the National Human Rights Commission, non-governmental organizations and federal entities.

49. Regarding lesbian, gay, bisexual and transgender persons, in June 2015, the Office of the State Attorney General published an action protocol to be followed by its personnel who intervened in cases involving sexual orientation or gender identity.

50. While noting these positive steps, the Special Rapporteur regrets not receiving information on prosecutions effectively carried out for violations against members of vulnerable groups. The Inter-American Commission on Human Rights noted in 2015 that vulnerable groups continued to be disproportionately subject to violence and human rights violations, particularly migrants, asylum seekers, refugees, women, children, and persons living in poverty. It also observed worrying levels of violence against families of victims, human rights defenders and journalists, and noted that their lack of access to justice fostered structural impunity for these violations.17

A. Women

51. While the Special Rapporteur noted the legislative and institutional reforms adopted in Mexico to address femicide and the implementation of the Cotton Field ruling of the Inter-American Court of Human Rights, he warned about the persistence of violence against women, often resulting in death and followed by impunity. He recommended that the Government consider codifying femicide in all relevant criminal codes based on objective characteristics, standardize police investigation protocols for femicide across the country and adopt measures to fully implement the ruling of the Inter-American Court of Human Rights in the Cotton Field case (para. 112). The Government replied that the crime of femicide was codified in 31 of the 32 federal entities. The 32 federal entities had enacted the Act on Access of Women to a Life Free of Violence and 28 of them had adopted regulations implementing the Act. In addition, each of the 32 entities had established a system to prevent, sanction and eradicate violence against women and care for the victims. In March 2015, the Office of the State Attorney General published two protocols for conducting ministerial, police and expert investigations, with a gender perspective, one for cases of sexual violence and the other for crimes of femicide. Regarding the ruling of the Inter-American Court of Human Rights, the Sub-commission for Coordination and Liaison to Prevent and Eradicate Violence against Women in Ciudad Juárez was established in 2013 to facilitate compliance with the ruling, and the Alba protocol was adopted in 2012 establishing the Technical Collaboration Group to Search for Disappeared Women and Girls. Other sources indicated that, despite those measures, the codification of femicides had not been homologated at all levels, investigations were not effective and the work of relevant authorities lacked compliance with the standards set out in the ruling. The Special Rapporteur welcomes the study on femicide undertaken by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and several Federal Government agencies. He notes the progress made and the challenges remaining in the implementation of the recommendation.

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B. Migrants

52. The Special Rapporteur stressed that undocumented migrants transiting through Mexico faced the risk of killing and disappearance, and noted the reported link between these crimes, police complicity and organized crime. He recommended that: a safe corridor be created for migrants in transit, including better protection while in transit; a package of protection and accountability measures be adopted to prevent attacks in migrant shelters; cooperation be strengthened between state departments and community organizations that provided humanitarian assistance to migrants; adequate redress be provided to victims of violence committed in the country; consideration be given to following an approach whereby undocumented migrants could exercise rights such as the right to report crimes to the authorities without fearing arrest; and the dignified repatriation of corpses be ensured in coordination with the State of origin (para. 113).

53. The Government responded that the National Institute of Migration had established 22 migrant protection groups, or “Beta Groups”, mandated to provide orientation, humanitarian assistance, rescue services and legal aid to transiting migrants, regardless of their nationality and legal status. The Institute also created 461 child protection officer posts in 32 federal delegations to assist unaccompanied migrant children. The Office of the Special Prosecutor for Violent Crimes against Women and Trafficking in Persons had set up a shelter to protect and assist victims of trafficking. Agreement A/117/15 (Official Journal, 18 December 2015) of the Office of the State Attorney General had established the Unit for the Investigation of Crimes against Migrants and the Mexican External Support Mechanism for Search and Investigation. In the States of Chiapas and Tabasco, strategic locations for migrant transit, the offices of the State Attorney General provided special care for migrant victims of crime. At the regional level, the Office of the State Attorney General promoted the regional cooperation initiative for prosecutors and attorneys-general from El Salvador, Guatemala, Honduras and the United States of America to develop strategies to protect migrants and combat trafficking networks. In July 2014, the Coordination Office for Comprehensive Assistance for Migration in the Southern Border Area had been established to coordinate regional action and strengthen state presence, in response to security and human rights challenges posed by migration flow. It was intended to establish a more efficient and secure border and combat crime against migrants.

54. Other reports pointed to the inconsistency between the stated objective of the Southern Border Plan to “protect and safeguard the human rights of migrants transiting through Mexico” and one of its strategic lines of action aimed at managing migration flows. The measures adopted to strengthen border control since the implementation of the plan had reportedly resulted in increased vulnerability for transiting migrants, who were now faced with multiple checks and sometimes extortion from police, military and National Institute of Migration agents, while continuing to be victims of organized criminal groups. The Special Rapporteur notes the measures adopted at the local, federal and regional levels to assist transiting migrants but regrets to learn about the situation of migrants affected by the Southern Border Plan.

C. Journalists and human rights defenders

55. During his visit, the Special Rapporteur had been informed about the alarming number of journalists and human rights defenders who were victims of threats, attacks and killings, sometimes even at the hands of authorities. He recommended that special investigation protocols be adopted for crimes committed against journalists and human rights defenders, requiring full examination of the possibility that the crime was committed because of the victim’s profession (para. 114). The Government replied that, under
agreement A/145/10 creating Feadle, all persons opining or informing through a media outlet were to be considered as journalists and human rights defenders when victims of crimes. Feadle provided assistance and protection to victims, systematized data collection on investigations carried out pursuant to abuses and granted protection measures in coordination with the Unit for the Reception of Cases and Rapid Response within the Ministry of the Interior’s National Executive Coordination Office. The Office of the State Attorney General had developed several protocols in these field, including: (a) agreement A/118/2003, establishing institutional guidelines for the protection of journalist’s sources of information who appeared as witnesses (Official Journal, 11 December 2003); (b) agreement A/136/05, adopting guidelines for the Office of the State Attorney General delegates to address crimes against journalists (Official Journal, 29 July 2005); (c) a cooperation agreement between the Ministry of the Interior, the Ministry of Foreign Affairs, the Office of the State Attorney General and the National Human Rights Commission for the adoption of preventive and protection measures for journalists (Official Journal, November 2010); and (d) the operating rules for the trust fund for the protection of human rights defenders and journalists (Official Journal, 5 November 2013).

56. Non-governmental sources reported that Feadle had no special investigation protocols for crimes against journalists in place at the federal level. In Mexico City, the Attorney General thereof issued agreement A/11/2010 in 2010, establishing an investigation protocol for crimes committed against journalists owing to their profession, and agreement A/04/2010, establishing an agency specialized in crimes against journalists. However, the same sources noted that the protocols’ implementation was discretionary and results were scarce, and pointed to the fact that Mexico City had become the state with the highest number of documented attacks against the press in 2014, most of which remained unpunished. In April 2015, the offices of the prosecutor in Morelos and Sinaloa had also adopted protocols for the investigation of crimes against freedom of expression. The Inter-American Commission on Human Rights observed the persistence of acute violence against journalists, especially in areas suffering from organized crime and collusion with state agents, and the killing of 12 journalists between 2014 and 2015. The National Human Rights Commission recently reported that 80 per cent of homicides against journalists were unsanctioned. It also noted the increase in the number of human rights defenders killed since 2011. The Special Rapporteur regrets that the information received relates mostly to regulations adopted prior to his mission and fails to update him on the implementation of the recommendation. He also regrets to learn about the continued violence suffered by journalists and the related impunity.

57. The Special Rapporteur noted in his mission report the measures adopted to enhance protection for journalists and defenders and the legal reforms established to enable investigation and prosecution of crimes against journalists at the federal level. He observed, however, that implementation was insufficient and recommended that the reform allowing federal authorities to exercise jurisdiction over offences committed against freedom of expression be effectively implemented and that the office of the special prosecutor be endowed with appropriate legal status, autonomy and sufficient resources (para. 115). In its previous response, the Government had indicated the functions carried out by Feadle, but did not give information about its resources, legal status and autonomy. In its present response, it recalled that article 73 (XXI) of the Constitution allows federal authorities to

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19 Situación de los derechos humanos, paras. 374-376; and www.oas.org/es/cidh/prensa/comunicados/2014/146A.asp.
exercise jurisdiction over offences committed against freedom of expression and that the conditions to exercise this jurisdiction were set forth in article 21 of the Criminal Procedure Code, including where: (a) offences severely affected freedom of expression or information; (b) offences were committed or manifested in states where these rights were seriously jeopardized; and (c) a decision from an international body established the State’s responsibility in the restriction of these rights. In September 2015, the authorities started working on rules of procedure to implement the Organic Law of the Office of the State Attorney General and establish a specialized unit for crimes against freedom of information and freedom of expression.

58. Other sources indicated that FEADLE exercised its jurisdiction on a discretionary basis, as it investigated crimes against journalists but not against freedom of expression and adopted a restrictive definition of journalism, which often excluded persons who exercised this profession from non-conventional platforms or for whom journalism was not the main profession or source of income. For example, in the murder of Moses Sanchez, director and editor of the newspaper *La Union* of Medellin de Bravo, the Office of the State Attorney General qualified him only as a taxi driver and dismissed his case as unrelated to his journalism. In addition, FEADLE often procrastinated in deciding to exercise its jurisdiction, leaving it to local entities to initiate inquiries, which meant that investigations could be partial or incomplete. The Inter-American Commission on Human Rights noted the reticence of FEADLE to exercise its jurisdiction over serious crimes and the lack of complete results in its investigations. The National Human Rights Commission noted delays and deficiencies in some FEADLE investigations, as well as difficulties in accessing information and figures on cases investigated by it. The Special Rapporteur regrets to learn about the delays and the restrictive approach used by FEADLE in exercising its jurisdiction.

59. The Special Rapporteur also recommended that consideration be given to ensuring the full implementation of the Act on the Protection of Human Rights Defenders and Journalists, providing the necessary financial and human resources for the effective and transparent implementation of the Mechanism for the Protection of Human Rights Defenders and Journalists, guaranteeing close coordination between the bodies responsible for preventive and protective measures and ensuring the full participation of journalists, human rights defenders, civil society and beneficiaries in the implementation and functioning of the Mechanism. He also recommended raising awareness about the existence of the mechanism, especially at the local level (para. 116). The Government reported that the Mechanism had received 297 applications by July 2015, of which 239 had been admitted. Efforts were made to improve the functioning of the Mechanism, including: (a) collaborating with Freedom House to improve the methodology for analysing applications and to overcome the backlog; (b) increasing the effectiveness of protection measures and incorporating a gender and a collective perspective into risk analyses; (c) creating a prevention unit; and (d) working towards the implementation of the annual operative plan with a strategic vision. The Mechanism’s trust fund for the protection of human rights defenders and journalists had received 267 million pesos for the provision of protection measures by March 2015. A civil society report published in July 2015 observed a number of challenges in the implementation of the Mechanism, including: (a) a lack of political support at the highest level; (b) insufficient coordination with state and municipal

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25 Ibid.
authorities; (c) inefficient functioning of the prevention unit; (d) insufficiently trained staff who rotate frequently; (e) an unclear methodology for risk assessment and errors made in risk analyses; (f) insufficient implementation of measures ordered; (g) protection measures focused on police protection and excluding root causes; (h) over-reliance on privatization of protection measures (panic buttons and private security); and (i) ineffective awareness-raising.\(^{26}\) The Inter-American Commission on Human Rights observed the improvement of the Mechanism’s internal procedures, while pointing to administrative and operative deficiencies, delays in the implementation of measures, a lack of follow-up to measures ordered and deficiencies in the panic button.\(^{27}\) The Special Rapporteur is concerned about the numerous remaining challenges to the implementation of the recommendation and welcomes the recent measures adopted to overcome some of them.

D. Children

60. The Special Rapporteur noted with concern the high number of children unlawfully killed and the steady increase in deaths of youths, as well as the situation of children who were recruited by organized criminal groups and were subsequently killed in intercartel violence or confrontations with the police. He recommended that appropriate measures be taken to protect the right to life of children, particularly during public security actions, and that regulations be established for the armed forces, police and justice personnel on how to ensure the rights of children during the investigations of homicides. Data on the number of children killed should be collected and effective public policies should be introduced to prevent adolescents from being recruited by organized crime (para. 117). The Government recalled the existence of a general law and rules of procedure on the rights of children and adolescents, the agreement and protocol to assist children and adolescents in the context of organized crime, and agreement A/323/06 of the Office of the State Attorney General, entrusting an agent in each unit with all criminal cases involving children. Other sources indicated that children continued to be killed during security operations, as had been the case recently in Santa María Ostula, and in Tamaulipas where two babies had been injured when their mothers’ car had been shot at by soldiers who had mistakenly taken them for criminals.\(^{28}\) The Special Rapporteur regrets the lack of progress in the implementation of this recommendation, particularly with regard to the collection of data and the adoption of mechanisms to protect children from violence by criminal groups or during public security operations.

E. Inmates and detainees

61. The Special Rapporteur expressed concern at the total lack of comprehensive and reliable information on deaths in places of detention. Such deaths were often the result of prison riots, mass escapes, targeted assassinations and torture. He recommended that conditions for all detainees be improved in compliance with the Standard Minimum Rules for the Treatment of Prisoners, and the right to life of all inmates be ensured (para. 118). The Government reported that federal prisons had increased their capacity by 22 per cent between 2012 and 2015 and that nine new federal social readaptation centres were under construction. A pilot project had been implemented to provide highly specialized

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\(^{28}\) The incident took place in late October 2015.
examinations through telemedicine. Furthermore, the Senate was drafting an opinion with a view to issuing the National Criminal Enforcement Act, which was intended to benefit inmates and focus on improving their social inclusion. The Special Rapporteur acknowledges the measures adopted to increase the structural capacity of prisons and to improve access to health care and social engagement. He regrets that he did not receive information on measures adopted to protect prisoners from threats to their life and physical integrity. In that regard, he is dismayed to learn about the deaths of 49 people during a quarrel between inmates in Topo Chico prison, an institution that has been denounced for its deficits in security and governance by the National Human Rights Commission and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.29

F. Lesbian, gay, bisexual and transgender individuals

62. The Special Rapporteur noted the alarming pattern of grotesque homicides of lesbian, gay, bisexual and transgender individuals and the broad impunity for these crimes, sometimes with the suspected complicity of investigative authorities. He recommended that police and other authorities be trained on gender-identity and sexual-orientation awareness, that protective and precautionary measures be ensured and that societal tolerance be encouraged (para. 119). The Government replied that the 2014 reform of the Federal Act for the Prevention and Elimination of Discrimination included homophobia and violence against individuals based on their sexual orientation as acts of discrimination. Fifteen federal entities had adopted constitutional provisions prohibiting discrimination on these grounds. The Government had instituted the National Day for the Fight against Homophobia and adopted the National Programme on Equality and Non-Discrimination for 2014-2018, which included several lines of work to combat violence and discrimination on the grounds of sexual orientation and gender identity. The Government also recalled the July 2015 protocol of the Office of the State Attorney General in this field. The Inter-American Commission on Human Rights observed that 42 homicides of transsexual persons and 37 homicides of homosexual men had been reported between January 2013 and March 2014.30 While the Special Rapporteur takes note of the measures adopted to combat violence and discrimination against lesbian, gay, bisexual and transgender persons, he is dismayed to learn about the recurrence of violence against them. He observes the lack of information concerning training initiatives.

VI. Conclusions

63. In the two years since the country visit, Mexico has made progress in addressing some of the concerns and recommendations in the report, and various other reforms are under way. The Government has implemented a number of positive measures to tackle impunity, reduce the militarization of public security, improve institutional coordination and information gathering in investigations of human rights violations and provide legal protection to vulnerable groups.

64. However, Mexico continues to face various challenges in relation to the protection of the right to life. Violence at the hands of State and non-State actors continues to affect lives, particularly of vulnerable persons. Protective measures for

30 Situación de los derechos humanos, para. 261.
groups at risk remain insufficient and ineffective. Despite a series of legal and institutional reforms, the lack of accountability for violations of the right to life remains a serious challenge, fostering the public perception of impunity and feeding into the cycle of violence. Adequate reparations to victims are still pending. Additional measures are still required to fully implement the Special Rapporteur’s previous recommendations in order to better ensure the protection of the right to life.

VII. Summary of follow-up to each recommendation

A. Legal and policy framework

65. The recommendations contained in paragraphs 94, 95, 99, 101 and 104-106 have been partially implemented.

66. The recommendations contained in paragraphs 93, 96, 98, 100, 102, 103, 107, 109 and 110 have not been implemented.

67. Insufficient information has been provided to enable assessment of progress in implementing the recommendations contained in paragraphs 97 and 108.

B. Vulnerable persons

68. The recommendations contained in paragraphs 111-113, 115, 116 and 119 have been partially implemented.

69. The recommendations contained in paragraphs 117 and 118 have not been implemented.

70. Insufficient information has been provided to enable assessment of progress in implementing the recommendations contained in paragraph 114.

C. General

71. The recommendations contained in paragraph 122 have been partially implemented.

72. The recommendations contained in paragraphs 120 and 121 have not been implemented.

See A/HRC/26/36/Add.1, paras. 93-122.
Tab. 10.
Situation of Human Rights in Mexico
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

The Human Rights Situation in Mexico

2015
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In keeping with Article 17(2) of the Commission’s Rules of Procedure, Commissioner José de Jesús Orozco Henríquez, a national of Mexico, did not participate in the discussion of, research and deliberations on, and approval of this report.
Approved by the Inter-American Commission on Human Rights on December 31, 2015
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EXECUTIVE SUMMARY
EXECUTIVE SUMMARY

1. This report addresses the human rights situation in the United Mexican States (Mexico), with particular emphasis on forced disappearances, extrajudicial executions and torture, as well as citizen insecurity, access to justice and impunity, the situation of journalists, human rights defenders, and other groups especially affected by the context of violence in the country. The report also provides recommendations with the aim of assisting the Mexican State in strengthening its efforts to protect and guarantee human rights in the country.

2. Mexico has been undergoing a serious situation of violence and security for several years. During the administration of former President Felipe Calderón and the launch in 2006 of the so-called “war on drugs,” serious situations of violence increased until they reached alarming levels, including the subsequent loss of more than 100,000 human lives, thousands of disappearances, and a context that has caused the displacement of thousands of people in the country. As a response to the increase in violence, authorities have opted to increase the role of the Armed Forces in law enforcement duties, which include a policy of confronting organized crime and the deployment of joint operations between the armed forces and state and municipal security agencies. This situation has sparked yet greater violence, as well as gross violations of human rights in which there has been a notable lack of accountability by international standards.

3. The Inter-American Commission on Human Rights (IACHR or Commission) values the measures the State has taken to address the situation presented in this report. Specifically, it acknowledges the significant constitutional and legislative reforms introduced in Mexico in 2011, the constitutional reform and protocols recently approved to investigate cases of torture and forced disappearance, as well as other initiatives highlighted herein. Notwithstanding this progress, the implementation of the State’s response has run up against deficiencies, shortcomings and obstacles. The IACHR has confirmed a deep gulf between the legislative and judicial framework and the daily reality millions of people face in accessing justice, violence prevention, and other public initiatives. Time and again the IACHR heard from victims throughout the country that the administration of justice is a “simulation.”

4. Despite the change in administration in December 2012, in practice there have been no substantial changes with regard to security policies and the violence levels. In this context, of particular concern are the reports of disappearances, extrajudicial executions and torture, as well as the situation of insecurity for women, children, migrants, human rights defenders, and journalists, who are victims of murder, disappearance, kidnapping, torture, harassment, and threats.
Moreover, Mexico is considered one of the most dangerous countries in the world for journalists, excluding countries that are at war.

5. According to official statistics, from December 2006 to November 2012 102,696 homicides were committed in the country, and the UN High Commissioner has made reference to 151,233 homicides through August 2015. Although the annual numbers of these crimes have declined since 2013, the amount continues to be high. As of September 30, 2015, the Mexican State reported there were 26,798 “unlocatable” or disappeared persons nationwide, and in some states there is an upward trend.

6. Forced disappearances of people have occurred in Mexico at different moments and with varying intensity, such as in the 1960s in the context of the so called “Dirty War” until the end of the 1980s, and currently have increased dramatically in the country. Especially grave is the widespread and consistent information the IACHR has received through its different mechanisms regarding the existence of a practice of forced disappearances at the hands of agents of the State, or with their participation, acquiescence, or tolerance. Figures provided by the State to international organizations show only six federal court convictions in Mexico for the crime of forced disappearance.

7. The deficiencies in the investigations of disappearances are many and serious. The current crisis of gross violations of human rights in Mexico is in part a consequence of the impunity that has persisted since the “Dirty War,” and has fostered their repetition heretofore. Many cases of disappearances are not reported due to family members’ distrust of the State’s capacity for response or their fear of reprisals. In those cases where a report is filed, the authorities’ response presents grave deficiencies. In this context, everywhere the IACHR went during its visit it met with victims, family members, and defenders, who described the barriers that they have run up against in their quest for justice, as well as their distrust of the authorities. This information is consistent with the IACHR’s research in the last several months in Mexico, as well as with various national and international sources. Family members’ discoveries of mass graves with dozens of bodies underscore that they are the ones who have undertaken the search for their loved ones given the State’s ineffectiveness. Meanwhile the authorities do not fulfill their duty to investigate, find, identify, and return the victims with the appropriate due diligence.

8. The forced disappearance of 43 young students from the rural teacher’s college “Raúl Isidro Burgos” in the State of Guerrero, on September 26 and 27, 2014—events in which other individuals were also wounded and murdered—constitutes a terrible tragedy in Mexico that was also a national and international wakeup call regarding disappearances in Mexico, and in particular in the State of Guerrero. Furthermore, it reflects the serious deficiencies in the investigations into these events and the structural and almost absolute impunity that permeate these

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2 The registered statistics are mostly related to disappearances between 2007 and 2015. In addition, there are also statistics about disappearances before 2007 and others that do not have a specified date. As of September 30, there were 880 disappearances under federal jurisdiction, and 25,918 in local jurisdictions. See Executive Secretariat, available at: http://secretariadoejecutivo.gob.mx/rnped/consulta-publica.php
serious crimes. This case is also an emblematic example of the apparent collusion between agents of the State and members of organized crime.

9. As mentioned in other opportunities, the IACHR reiterates that it welcomes the Mexican State’s openness to international scrutiny and the work of the Interdisciplinary Group of Independent Experts [Grupo Interdisciplinario de Expertos Independientes—GIEI] in particular. The GIEI has the following responsibilities: analysis of the plans to find the disappeared persons alive, and where appropriate, to recommend best practices for a more efficient investigation; a technical analysis of lines of inquiry to determine criminal responsibilities; a technical analysis of the Comprehensive Plan for Assisting Victims of the events of September 26 and 27. The Commission is convinced that such openness and the cooperation agreement such as the one that give rise to the GIEI’s work, based on the requests of the State and the representatives of the families, are key to making headway in safeguarding human rights in Mexico and shedding light on the fate of the 43 students from Ayotzinapa. The IACHR hopes that during the GIEI’s renewed mandate, the group can support advances in the investigation.

10. In this framework, there have been in recent years tragic incidents of violence with involvement of agents of the State, which have been widely reported in the media: the murder of 22 people in Tlatlaya, State of Mexico, some of whom were allegedly victims of extrajudicial executions by army soldiers; the death of civilians presumably at the hands of Federal Police in Apatzingán, Michoacán, in January 2015; the alleged confrontation at the border between Tanhuato and Ecuandureo, Michoacán in June 2015, in which 42 civilians and one Federal Police agent lost their lives, among others. In the three cases mentioned above, the first version provided by authorities—without any investigation having taken place—was that the deaths of civilians were the result of confrontations between public forces and civilians. With the passing of time and following investigation, testimonies and circumstantial evidence point to the alleged participation of federal authorities and members of the armed forces, manipulation of the crime scene in order to present the situation as if it had been a confrontation, as well as irregularities in the investigations. These situations call for a review of the use of force in Mexico in keeping with the principles of legality, absolute necessity, and proportionality. Furthermore, it demands the adoption and implementation of accountability measures by a body that is independent of all security forces in situations where there has been loss of life during public security operations or activities.

11. Furthermore, the practice of torture in Mexico is alarming. The Mexican State reported that as of April 2015, the Attorney General’s Office (PGR) had 2,420 pending investigations for torture, and that there are only 15 federal convictions for this crime. The Commission agrees with other international organizations in highlighting that torture is generalized in Mexico and frequently occurs when someone is detained—usually arbitrarily—and prior to the detained individual being brought before a judge. The IACHR notes that even in the investigation of the events occurred in Iguala, one of the highest-profile matters in terms of human rights in the recent past, 77% of the persons who were being investigated showed bodily injuries, which is indicia, at least, of the existence of ill treatment and potential torture committed against them.
12. The Commission has confirmed on the ground the critically high levels of impunity and inadequate and insufficient attention to victims and their family members. The failure to provide access to justice has created a situation of structural impunity whose effect is to perpetuate, and in some cases foster, the repetition of gross human rights violations. The threats, harassment, murders, and disappearances of individuals who seek truth and justice has led to a cowing of Mexican society, which the IACHR noted in countless testimonies of people who have not reported these violations to the authorities for fear of reprisals, leading to a serious problem of underreporting in official figures. Barriers in the access to justice, and the ineffectiveness in many cases with a resulting impunity, have weakened the Rule of Law and constitute urgent challenges. In addition to its *in loco* visit in 2015, the Commission has monitored the human rights situation in Mexico, including the issues described in this Report, for many years through its various human rights monitoring mechanisms such as thematic and country hearings,, cases and petitions, precautionary measures, requests for information, visits by thematic Rapporteurs, among others.

13. Currently, the challenge for the Mexican State is to close the existing gap between its legal framework and unconditional support of human rights and the reality faced by a large number of citizens when they seek a prompt and effective justice. Thus, the Mexican State's real challenge is to break the cycle of prevailing impunity in order to achieve effective prevention, investigation, prosecution, and punishment of the perpetrators of human rights violations. In this regard, the IACHR makes a series of recommendations to the Mexican State.
CHAPTER 1
INTRODUCTION
INTRODUCTION

14. The IACHR has observed with concern that the human rights situation in Mexico in recent years has revealed more reports of disappearances and forced disappearances, extrajudicial executions, and torture, as well as a deterioration of citizen insecurity, the lack of access to justice, and impunity, with a particular impact on journalists, human rights defenders, and other groups especially affected by the context of violence in the country, such as persons living in poverty and/or in marginalized zones, migrants, asylum seekers, refugees and internally displaced persons, women, children and adolescents, indigenous peoples, among others.

15. Pursuant to note 0028, dated January 30, 2015, the Mexican State extended “an invitation to the IACHR to conduct an in situ visit to Mexico in 2015 in order to analyze the human rights situation in the country.” In note OEA-02073, dated June 23, 2015, the Mexican State proposed that the visit take place between September 28 and October 3, 2015. The Commission, in a press release dated July 28, 2015, confirmed its in situ visit to the country from September 28 to October 2, 2015.

16. The IACHR conducted its in situ visit from September 28 to October 2, 2015. The Commission observed on the ground the human rights situation in the country, with particular emphasis on forced disappearances, extrajudicial executions and torture, as well as the situation of citizen insecurity, barriers in the access to justice, impunity, and the situation of journalists, human rights defenders, and other groups especially affected by the violence in the country. After the invitation, and even before, through various visits by members of the Commission, the IACHR documented the situation in Mexico in the mentioned areas.

17. The delegation during the visit consisted of the President of the IACHR, Rose-Marie Belle Antoine; First Vice-President James Cavallaro; and Commissioners Felipe González, Tracy Robinson, and Rosa María Ortiz. Other members of the delegation included IACHR Executive Secretary Emilio Álvarez Icaza Longoria; Assistant Executive Secretary Elizabeth Abi-Mershed; the Special Rapporteur for Freedom of Expression, Edison Lanza; and other members of the IACHR Executive Secretariat.

18. The Inter-American Commission interviewed authorities from the three branches of government at different levels, and met with representatives of civil society, autonomous agencies, and international organizations, as well as academicians and journalists. It also heard testimony provided by victims of human rights violations and their family members. The delegation visited Mexico City, Coahuila, Guerrero, Nuevo León, Tabasco, and Veracruz.

19. The IACHR met with the Presiding Justice of the Supreme Court, Luis María Aguilar Morales, and Justices Alfredo Gutiérrez Ortiz Mena, Alberto Pérez Dayán, and Jorge...
Mario Pardo Rebolledo; the Secretary of the Interior, Miguel Ángel Osorio Chong; the Secretary of Foreign Relations, Claudia Ruiz Massieu; the Undersecretary of Multilateral Affairs and Human Rights, Miguel Ruiz Cabañas; Representative of the Deputy Attorney General’s Office for Human Rights, Crime Prevention, and Community Services (SDDHPDSC), Israel González Delgado; the President of the Senate, Roberto Gil Zaurth; Senators Luis Sánchez Jiménez, Alejandro de Jesús Encinas Rodríguez, Hilda Esthela Flores Escalera, Angélica de la Peña, Fernando Yunez Márquez, Gabriela Cuevas Barrón, Mariana Gómez del Campo Guzra, Layda Sansores San Román, Enrique Burgos García, Manuel Bartlett, Miguel Barrosa Huerta, Luis Humberto Fernández Fuentes, Alejandro de Jesús Encinas Rodríguez, and Adriana Dávila Fernández; the President of the Chamber of Deputies, Jesús Zambrano; the Chair of the Political Coordination Group of the Chamber of Deputies, César Camacho; the Attorney General, Arely Gómez González; the President of the National Human Rights Commission (CNDH), Raúl González Pérez; the Undersecretary of Human Rights of the Ministry of the Interior, Roberto Campa Cifrián; the Deputy Director General of the Human Rights Advocacy Unit of the Ministry of the Interior, Ricardo Sánchez Pérez del Pozo; the Head of Implementation of the Constitutional Reform at the Federal Council of the Judiciary, Juan José Olvera López; the Permanent Representative of Mexico to the OAS, Emilio Rabasa Gamboa; the Deputy Director General of the General Directorate for Human Rights and Democracy, Erasmo Lara Cabrera; the National Security Commissioner, Renato Sales Herrera; the Legal Adviser of the Secretariat of Foreign Relations, Alejandro Alday González; the National Commissioner to Prevent and Eradicate Violence against Women (CONAVIM), Alejandra Negrete; the President of the National Council of Governors (CONAGO), Governor Eruviel Ávila; the Coordinator of the CONAGO Human Rights Commission, Governor Rubén Moreira; the Undersecretary for Prevention and Citizen Participation, Arturo Escobar y Vega; and the Commissioner General of the Federal Police, Enrique Francisco García Ceballos. At the National Commission of High Courts of Mexico (CONATRIB), the IACHR met with the Presiding Judge of the High Court of Justice and President of the Council of the Judiciary of the Federal District, Edgar Elías Azar, as well as with the Presiding Judges of the High Courts in the states of Aguascalientes, Juan Manuel Ponce Sánchez; of Durango, Apolonio Betancourt Ruiz; of Guerrero, Lambertina Galeana Marín; of Morelos, Nadia Luz María Lara Chávez; of Oaxaca, Alfredo Rodrigo Lagunas Rivera; of Puebla, Roberto Flores Toledano; of Sinaloa, José Antonio García Becerra; and of Tlaxcala, Elsa Cordero Martínez. It also met with Technical Secretary Alfredo Álvarez Cárdenas and with Criminal Court Judges: from the First Court, Eduardo Alfonso Guerrero Martínez; the Second Court, Manuel Horacio Cavazos López; the Third Court, Elsa del Carmen Arzola Muñoz; the Fourth Court, Enrique Sánchez Sandoval; the Fifth Court, Salvador Ávalos Sandoval; the Sixth Court, María de Jesús Medel Díaz; the Sixth Court, Ramón Alejandro Senties Carriales; the Seventh Court, Raúl Jaime Campos Rábago; the Eighth Court, José Guadalupe Carrera Domínguez; and the Ninth Court, Joel Blanno García. The IACHR also met with the Commissioner of the Administrative Agency for Prevention and Social Rehabilitation, Eduardo Guerrero; the General Coordinator of Federal Facilities, Emanuel Castillo Ruiz; the Head of the Unit for Legal Affairs and Human Rights of the Administrative Agency for Prevention and Social Rehabilitation, Raúl Salvador Ferráez Arreola; the President of the Executive Commission for Attention to Victims, Sergio Jaime Rochín del Rincón; the Head of the Human Rights Defense Unit of the Ministry of
the Interior, Sara Irene Herrerías Guerra; the Deputy Attorney General for Legal and International Affairs of the Attorney General's Office, José Alberto Rodríguez Calderón; and the Undersecretary for Population, Migration, and Religious Affairs, Humberto Roque Villanueva. In addition, the IACHR met with Brigadier General of Military Justice José Carlos Beltrán Benítez, Brigadier General of Military Justice Alejandro Ramos Flores, and other members of the National Defense Secretariat (SEDENA); Captain Fernando Ocampo and Admiral Alejandro M. Vázquez Hernández, and other members of the Navy Secretariat (SEMAR); the Deputy Attorney General for Human Rights, Crime Prevention, and Citizen Participation, Eber Omar Betanzo Torres, and other officials from the Attorney General’s Office (PGR); the Mexican Commission for Refugee Assistance (COMAR); the Commissioner of the National Migration Institute (INM), Ardelio Vargas; the Coordination Council for the Implementation of the Criminal Justice System (SETEC) and its Head, María de los Ángeles Fromow Rangel; the Special Prosecutor for Crimes against Freedom of Expression (FEADLE), Ricardo Nájera Herrera; the Governing Board of the Protection Mechanism for Human Rights Defenders and Journalists; the National Institute of Women (INMUJERES); the National Commission to Prevent and Eradicate Violence against Women (CONAVIM); and the Executive Commission for Attention to Victims (CEAV).

20. In its visit to federal entities, the IACHR met with the following officials: the Head of Government of the Federal District (Mexico City), Miguel Ángel Mancera; the President of the Mexico City Human Rights Commission (CDHDF), Perla Gómez; and other CDHDF officials. In the state of Guerrero, it met with Governor Salvador Rogelio Ortega Martínez; Governor-Elect Héctor Astudillo Flores and his team; the Secretary of Public Security, Pedro Almazán Cervantes; the Guerrero Public Prosecutor, Miguel Ángel Godínez Muñoz; and the Deputy Director General of Institutional Liaison, Ricardo Sánchez. In the state of Tabasco, the IACHR met with Governor Arturo Núñez; the Secretary of the Interior, César Raúl Ojeda Zubieta; the President of the State Human Rights Commission, Jesús Manuel Argáez de los Santos; the Secretary of Public Security, General Sergio Ricardo Martínez Ruiz; the State Attorney General, Fernando Valenzuela Pernas; the General Coordinator of Legal Affairs, Juan José Peralta; the Federal Delegate of the National Migration Institute of Tabasco, Eduardo Hernández Dighero; the Deputy Attorney General for Human Rights and Comprehensive Victim Assistance of the State Attorney General’s Office, Juan Sibaja Contreras; the Deputy Director of Assistance for Human Rights Defenders at the Human Rights Defense Unit, Mariana Franco González; and the Attorney for the Office of Cases at the Secretariat of Foreign Relations, Guillermo Díaz Ordaz Rigada. In the state of Veracruz, the IACHR met with the Governor of Veracruz, Javier Duarte Ochoa; the State Attorney General, Luis Ángel Bravo; the Secretary of Public Security, Arturo Bermúdez; the Director General of Integral Family Development (DIF), Astrid Elías Mansur; the Legal Director of the Veracruz DIF, Armando Ruiz Sánchez; the Executive Secretary of the State Commission to Assist and Protect Journalists, Namiko Matsumoto Benítez; the State Prosecutor for the Protection of Children and Adolescents, Adelina Trujillo Landa; the Adviser for Legal Affairs and Citizen Rights in the Governor’s Office, José Ramón Cárdeno; and the State Director General for Sentencing Enforcement, Juan Carlos Espino. In the state of Nuevo León, the IACHR delegation met with the Governor, Rodrigo Medina de la Cruz; the Secretary General of Government, Felipe González Alanís; the Head of the Governor’s
Executive Office, Jorge Domene; the Attorney General, Javier Enrique Flores; and the Secretary of Public Security, Alfredo Flores Gómez. In the state of Coahuila, the IACHR delegation met with the Governor, Rubén Moreira Valdez; the Secretary of Government, Víctor Manuel Zamora Rodríguez; the State Attorney General, Homero Ramos Gloria; the President of the State Victims Commission, Luis Efrén Ríos Vega; the Head of the Human Rights Unit of the Executive Branch, Federico Garza Blanco; the Deputy Prosecutor for Human Rights and Special Investigations of the State Attorney General’s Office (PGJE), Liberto Hernández Ortiz; the Deputy Ministerial Prosecutor of the PGJE, Norberto Ontiveros Leza; the Prosecutor for Children and Families, Yezka García Ramírez; and the President of the Board of Directors of Congress, Human Rights Commission, and local Congressional Deputy, Georgina Cano Torralba.

21. It also met with the Deputy Representative of the UN Office of the High Commissioner for Human Rights in Mexico, Jesús Peña Palacios; the Human Rights Officer of the Office of the UN High Commissioner for Human Rights in Mexico, Alán García Campos; the Interdisciplinary Group of Independent Experts; and the Argentine Forensic Anthropology Team (EAAF).

22. In addition, the IACHR met with the following civil society organizations: Abogadas y Abogados para la Justicia y los Derechos Humanos, A. C, Acción con Pueblos Migrantes (VM-APM), Acción Urgente para Defensores de Derechos Humanos A.C (ACUDDEH), Agenda LGBT, A.C, Agrupación de Derechos Humanos Xochitepetl A.C, Albergue Casa del Caminante Static, Alconsumidor A.C, Alianza Sierra Madre A.C, Altépetl, Nahus de la Montaña, A.C, Amnesty International, Archdiocese of Acapulco, Artículo 19 Oficina para México y Centroamérica, Asociación de Familiares de Detenidos Desaparecidos y Víctimas de Violaciones a los Derechos Humanos en México, AFADEM-FEDEFAM, Asociación Jalisciense de Apoyo a Grupos Indígenas A.C (AJAGI), Asociación Mexicana de Abogados del Pueblo, Asylum Access México, AVANCE Por los Derechos de México, A.C., AVC Noticias, Buscando a nuestros Desaparecidos y Desaparecidas, Veracruz, Casa del Caminante JTatic Samuel Ruíz García; Casa del Migrante Casa Nicolás, Casa del Migrante de Saltillo, Centro de Apoyo al Trabajador, Centro de Colaboración Cívica, A.C, Centro de Derechos Humanos "Bartolome Carrasco Briseño", Centro de Derechos Humanos de la Montaña "Tlachinollan", Centro de derechos Humanos de las Mujeres (CEDEM), Centro de Derechos Humanos de los Pueblos del Sur Veracruz, "Bety Cariño", Centro de Derechos Humanos Fray Bartolomé de Las Casas, AC, Centro de Derechos Humanos Fray Francisco de Vitoria, OP, A.C; Centro de Derechos Humanos Fray Matías de Córdova A.C.; Centro de Derechos Humanos Miguel Agustín Pro Juárez, Centro de Derechos Humanos Paso del Norte, Centro de Derechos Humanos Toaltepeyo, Centro de Derechos Humanos y Alternativas Sociales Las Tepehuas, A.C, Centro de Derechos Humanos y Asesoría a Pueblos Indígenas A.C, Centro de Derechos Humanos Zeferino Ladrillero, Centro de Desarrollo y Atención Psicológica, A.C (CEDAPI), Centro de Estudios Sociales y Culturales Antonio de Montesinos, A. C, Centro de Investigación y Capacitación Propuesta Cívica A.C. (CIC-PC), Centro Fray Julián Garcés, Centro Mexicano de Derecho Ambiental A.C. (CEMDA), Centro Nacional de Comunicación Social, A.C (CENCOS), Centro para los Derechos Humanos Fray Juan de Larios, A.C, Centro Penitenciario Varonil Saltillo, Centro Regional de Defensa de Derechos Humanos José María Morelos y Pavón, Ciencia Forense Ciudadana, Ciudadanos en Apoyo a
los Derechos Humanos A.C (CADHAC), International Human Rights Clinic of Seattle University School of Law, Closet Sor Juana, A.C, Colectivo Contra la Tortura e Impunidad, A.C (CCTI), Colectivo Contra la Trata de Personas, Colectivo de Análisis de la Seguridad con Democracia A.C (CASEDE), Colectivo Defensa Verde Naturaleza para Siempre, Colectivo por la Paz Xalapa, Colectivo Red de Madres, Colectivo SÍ a la Vida, Colectivo Ustedes, Somos Nosotros, Comisión Independiente de Derechos Humanos de Morelos, Comisión Mexicana de Defensa y Promoción de los Derechos (CMDPDH), Comité Cerezo México, Comité de Derechos Humanos de Colima No Gubernamental A.C., Comité de Derechos Humanos de Nuevo Laredo, Comité de Esclarecimiento de los Años, Comité de Familiares de Detenidos Desaparecidos Hasta Encontrarlos, Comité de familiares de Migrantes del Centro Honduras (COFAMICENH), Comité de Familiares de Migrantes Desaparecidos y fallecidos de El Salvador (COFAMIDE), Comité de Familiares Desaparecidos del Progreso Honduras (COFAMIPRO), Comité de Familias de Desaparecidos y Asesinados de Guerrero, Comité de viudas de la masacre del Charco, Comité Independiente de Solidaridad con los Caídos del 68, Comité para la Libertad Veracruz, Comunicación e Información de la Mujer A.C (CIMAC), Comunidad de Ostula, Comunidad Indígena de San Miguel Aquila, Consultoría Técnica Comunitaria A.C. (CONTEC), Contingente MX, Coordinación Jurídica Retoño, Coordinadora Estatal de Trabajadores de la Educación Guerrero (CETEG), Coordinadora Regional de Autoridades Comunitarias Policía Comunitaria (CRAC PC), Defensoría y estrategias integrales para los derechos humanos y territoriales, Desarrollo Autogestionario A.C, Desplazados de Copala, Deudos y defensores Dignidad de nuestros desaparecidos, Diario de Xalapa, Diocese of San Cristóbal de las Casas, Documenta, análisis y acción para la justicia social, AC, E-Consulta, El Barzón, El Solecito Veracruz, Elige Red de Jóvenes Por los Derechos Sexuales y Reproductivos A.C, Enlaces Nacionales, Equifonía Colectivo por la Ciudadanía, Autonomía y Libertad de las Mujeres, A.C, Equis Justicia para las Mujeres, Eslabones Morelos, School of Social and Political Sciences of the National Autonomous University of Mexico (UNAM), Monterrey School of Law (FLDM), Familiares de los 43 desaparecidos de Ayotzinapa, Familias Unidas por los Desaparecidos en Piedras Negras, Federación Mexicana Pro Derechos Humanos "POS ME AMPARO"A.C., Freedom House México, Fuerzas Unidas por Nuestros Desaparecidos en Coahuila, Fundación Arcoiris por el respeto a la diversidad sexual, A.C, Fundación para la Justicia y el Estado Democrático de Derecho A.C (FJEDD), Fundar, Centro de Análisis e Investigación, A.C, Grupo Imagen Multimedia, Cambio Digital, H.I.J.O.S. México, Idheas Litigio Estratégico en Derechos Humanos, A.C, Imagen del Golfo Colectivo, Incidencia política Advocacy, Indignación, Promoción y Defensa de los Derechos Humanos A.C., Instituto de Derechos Humanos Ignacio Ellacuría SJ, Instituto Mexicano de Derechos Humanos y Democracia A.C, Instituto Mexicano para el Desarrollo Comunitario (IMDEC, A.C), Instituto para la Seguridad y Democracia (INSYDE, A.C), Instituto para las Mujeres y la Migración (IMUMI), International Detention Coalition (IDC), Autonomous Technological Institute of Mexico (ITAM); Justicia, Derechos Humanos y Género, A.C, Kalli Luz Marina, A.C, Kinal Antzetik, Guerrero, A.C, La Asamblea Veracruzana de Iniciativas y Defensa Ambiental (LAVIDA), La 72 Hogar-Refugio para Personas Migrantes, La Jornada Veracruz, La Red por los Derechos Sexuales y Reproductivos en México (LEDESER), La Silla Rota, La Unión Medellín, Las Reinas Chulas Cabaret y Derechos Humanos A.C, Litiga, Organización de Litigio Estratégico de Derechos Humanos, A.C. (Litiga OLE), Litigio Estratégico sobre Derechos Sexuales y Reproductivos relacionados con la población LGBTI en México, Los Otros
Desaparecidos de Iguala, Movimiento Migrante Mesoamericano (MMM), Noticias de Veracruz, Latin American Observatory on Regulation, Media, and Convergence, MacArthur Foundation Office in Mexico, Organización de Campesinos Ecologistas de la Sierra de Petatlán, Organización Familia Pasta de Conchos (OFPC), Periodistas de a Pie, Plataforma de Vinculación con Periodistas, Proceso Semanario de Información y Análisis, Advocacy Programs of the Ibero-American University, Mexico City, Proyecto sobre Organización, Desarrollo, Educación e Investigación (PODER), Puebla Libre, Radio Huayacocotla, Red ciudadana de no violencia y dignidad humana, Red Cívica Ciudadana (RECYC), Red de Radios Comunitarias de México, A.C./AMARC-México, Red Eslabones por los Derechos Humanos e integrantes del Movimiento por la Paz con Justicia y Dignidad, Red Nacional de Defensoras México, Red Nacional de Organismos Civiles de Derechos Humanos, Red Nacional de Organismos Civiles de Derechos Humanos Todos los Derechos para Todas y Todos, Red por los Derechos de la Infancia en México (REDIM), Red Solidaria Década contra la Impunidad, Red Unidos por los Derechos Humanos, SDP Noticias, Servicio Jesuita a Migrantes (SJM), Servicios y Asesoría para la Paz A.C (SERAPAZ), Siempre Vivos, A.C, Sin Fronteras I.A.P, Sindicato Minero, A.C, Taller de Desarrollo Comunitario, Guerrero (TADECO), Unión de barres y familiares de desaparecidos en Sinaloa, Unión Empresarial del Comercio y los Servicios (UCEZ), Unión Popular de Vendedores Ambulantes 28 de octubre (UPVA), Ibero-American University; University of Manchester, University of Veracruz, Voces Mexicanas, Voces Unidas por la Vida, y las de El Fuerte, Voz Alterna, W Radio y Zacatecanos por la Paz. The IACHR also met with victims of human rights violations and their relatives, who provided testimony.

23. In order to prepare this report, IACHR has systematized and analyzed the information received on the human rights situation in Mexico in recent years. The IACHR has availed itself of the information received before, during, and after the in loco visit, including the visits of the Rapporteur for Persons Deprived of Liberty in September 2014 and September 2015, the investigations undertaken ex officio, the input from different mechanisms through which the Commission has monitored the situation in the country, such as public hearings, thematic visits, requests for information under Article 41 of the American Convention and precautionary measures; journalistic articles, decisions and recommendations from specialized international organizations, among others.3

3 Below are listed the hearings, press releases, precautionary measures granted between 2011 and 2015, requests for information and visits of the IACHR in relation to Mexico:
2011 - The following hearings on Mexico were held during the 141 Period of Sessions: “Constitutional Reforms on Human Rights in Mexico”; “Human Rights Situation of Persons in Preventive Detention in Mexico”; Citizen Security and Human Rights in Mexico”; and “Land Tenure and Human Rights of Indigenous Peoples in Mexico”; and “Human Rights Situation of Migrant Persons on the Southern Border of Mexico”. The following hearings on Mexico were held during the 143 Period of Sessions: “Follow-Up to the Visit to Mexico by the Office of the Rapporteur on the Rights of Migrants”; Citizen Security and Human Rights in Mexico”; “Attacks on Journalists in Mexico”; and “Case 12.791 – Jesús Angel Gutiérrez Olvera, Mexico (Testimony)”.
The following press releases on Mexico were issued in 2011: R 11/11 - Special Rapporteur Condemns Armed Attack on Media Outlets in Mexico. Washington, D.C., February 16, 2011; R 26/11 - Office of the Special Rapporteur Condemns Crimes Against Two Media Workers in Mexico. Washington, D.C., March 29, 2011; 34/11 - IACHR Condemns Murder of 145 People whose Bodies were Found in Clandestine Graves in Mexico.

The following precautionary measures were awarded to beneficiaries in Mexico in 2011: PM 270/10 – Nazareth Migrant House and Human Rights Center, Nuevo Laredo, Mexico, May 16, 2011; PM 111/10 – Rosa Díaz Gómez and Other Members of the Jotolá Ejido, Mexico, May 19, 2011; PM 55/10 – Patricia Galarza Gándara and others, Mexico, May 19 2011; PM 448/10 – Víctor Ayala Tapia, Mexico, June 28, 2011; PM 344/08 – Family of Javier Torres Cruz, Mexico, July 19, 2011; and PM 262/11 – Ten Persons alleged to have been disappeared, Mexico, December 2, 2011.

The Rapporteurship on the Rights of Migrant Workers and their Families conducted a visit to Mexico from July 25 to August 2, 2011, with the purpose of observing the human rights situation of migrants in that country.

The Rapporteur for Mexico, Commissioner Escobar Gil, conducted a working visit from September 26 to 30, 2011. During the visit, the delegation held a series of meetings with senior State officials, including the President of the Republic, Felipe Calderón Hinojosa, and with civil society organizations. Various working meetings on cases and precautionary measures were held.

2012 - The following hearings on Mexico were held during the 144 Period of Sessions: “Complaints of Institutional Segregation and the Abuse of Children and Adults with Disabilities in Mexico”; “Situation of the Rights of Persons Deprived of Liberty in Mexico”; and “Situation of Missing Migrants and Unidentified Remains in Mexico”. The following hearings on Mexico were held during the 146 Period of Sessions: “Human Rights and Militarization in Mexico”; and “Situation of Street People in Mexico”.


The following precautionary measures were awarded to beneficiaries in Mexico in 2012: PM 351/11 – Ananías Laparra Martínez, México, January 18, 2012; PM 208/10 – Estela Ángeles Mondragón, Mexico, March 1, 2012; PM 485/11 – X, Mexico, May 8, 2012; PM 77/12 – Alberto Patištán Gómez, Mexico, May 24, 2012; PM 60/12 – Members of the Triqui Indigenous Community in the San Pedro River Valley, San Juan Mexico.
Cópala, Putla de Guerrero, Oaxaca, Mexico, May 29, 2012; PM 21/11 – Blanca Velázquez Díaz et al., Mexico, May 29, 2012; and PM 388/12 – Edgar Ismael Solorio Solís et. al., Mexico, November 6, 2012.

2013 - The following hearings on Mexico were held during the 147 Period of Sessions: "Case 12.229 - Digna Ochoa y otros, Mexico (Admissibility)"; "Case 12.846 - Mariana Selvas Gómez et al, Mexico (Merits - Testimony)"; “Exhibition in the media of victims of crime and of persons under the responsibility of the Public Ministry in Mexico”; “Human Rights Priorities and Legislative Harmonization in Mexico”; “General Human Rights Situation in Mexico”; and “Situation of Human Rights of the Raramuri and Tepehuan Indigenous Peoples in the Sierra Tarahumara of Chihuahua, Mexico”. The following hearings on Mexico were held during the 149 Period of Sessions: “Reports of Human Trafficking in Mexico”; “Situation of Individuals Affected by Internal Displacement in Mexico”; “Situation of Individuals Deprived of Liberty at the Islas Marias Prison Complex in Mexico”; and “Situation of the Disappearance of Persons in Mexico”.


The following precautionary measures were awarded to beneficiaries in Mexico in 2013: PM 391/12 - Toribio Jaime Muñoz Gonzalez and others, Mexico, April 16, 2013; PM 273/11 - Fray Tomás González Castillo, Ruben Figueroa, staff Home- Shelter migrants ‘La 72’ and others, Mexico, April 19, 2013; and PM 338/13 – Lorenzo Santos Torres and Family, Mexico, November 8, 2013.

In exercising the powers granted to it under Article 41 of the American Convention on Human Rights and Article 18 of its Statute, in 2013 the IACHR requested information from the State of Mexico regarding the following specific issues: Situation of the Binízá people and community, July; Aggression and arrests at social protests, October; and Request for up-to-date information about the progress made in implementing and operating the mechanism to protect defense attorneys and journalists, November.

2014 - The following hearings on Mexico were held during the 150 Period of Sessions: “Human Rights Public Policy and Good Practices in Mexico”; “Challenges to the Work of the Truth Commission of the State of Guerrero, Mexico”; “Maternal Health and Reports of Obstetric Violence in Mexico”; and “Challenges in the Implementation of the Criminal Justice System in Mexico”. The following hearings on Mexico were held during the 153 Period of Sessions: “National Human Rights Program In Mexico”; “Reports of Destruction of the Bicultural Heritage Due to the Construction of Mega Projects of Development in Mexico”; “Special Prosecutor for Social and Political Movements of the Past in Mexico”; “Reports of Impunity for Serious Violations of Human Rights in Mexico”; and “Human Rights and Social Protest in Mexico”.

The following precautionary measures were awarded to beneficiaries in Mexico in 2014: PM 453/13 - Daniel Ramos Alfaro, Mexico, February 20, 2014; PM 252/14 - Members of the Contralínea magazine, México, July 18, 2014; PM 409/14 - Students of the rural school “Raúl Isidro Burgos”, México, October 3, 2014; PM 60/14 - Prudencio Ramos Ramos and others, Mexico, October 6, 2014; PM 423/14 - Clara Gómez González and others, Mexico, October 10, 2014; and PM 185/13 – Sofía Lorena Mendoza Martínez and others, Mexico, December 1, 2014.

In exercising the powers granted to it under Article 41 of the American Convention on Human Rights and Article 18 of its Statute, in 2014 the IACHR requested information from the State of Mexico regarding the following specific issues: Dictum on the law on Public Protests for the Federal District, January; Situation of internally displaced persons in Mexico, March; Mechanism of protection for human rights defenders and journalists in Mexico, April; Assassination of Sandra Luz Hernández, human rights defender, May; Secondary legislative initiative on telecommunication and radio broadcasting, June; and Situation of Grupo Juárez, Mexico City, August.

The Rapporteur, Felipe González Morales, was in Mexico City on August 18 and in Saltillo, Coahuila on August 19, 2014, presenting the report “Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico.”

From September 17 to 19, 2014, the Rapporteurship on the Rights of Persons Deprived of Liberty made a monitoring visit to Mexico that constitutes the first part of a two-part visit, the second part of which will take place in early 2015. In the course of this first visit the Rapporteur met with several authorities as well as with a group of experts on persons deprived of liberty and with civil society organizations devoted to monitoring the situation of the prison system in Mexico.

The Rapporteur on the Rights of Children and Adolescents of the IACHR, Commissioner Rosa María Ortiz, conducted a visit to Mexico between October 6 and 14, 2014. The main objective of the visit was to monitor the human rights of children and adolescents in Mexico, at the federal level and in four states and the Federal District, with particular emphasis on monitoring the systems for the promotion of the rights of girls and boys, as well as the impact of violence and migration on the exercise of their rights. The Rapporteur also participated in a working meeting on the implementation of the precautionary measures requested by the IACHR of the State in favor of 43 disappeared youths in the city of Iguala.

2015 - The following hearings on Mexico were held during the 154 Period of Sessions: “Reports of Acts of Forced Disappearance and Impunity in México”; “Energy Reform and Economic, Social, and Cultural Rights in México”; “Reports of Sexual Torture of Women in México”; and “Access to Justice for Migrant Persons in México”. The following hearings on Mexico were held during the 156 Period of Sessions: “Case 12.790 – Manuel Santiz Culebra et al. (Actual Massacre), Mexico (Merits)”; “Presentation of the Report “Investigation and First Conclusions of the Disappearances and Homicides of the Students of Ayotzinapa” (Scheduled by the Commission – Plenary)”; “Human Rights and Drug Policy in Mexico”; and “Reports of Extrajudicial Executions in Mexico”.

24. On November 24, 2015, the IACHR sent the Mexican State a copy of the preliminary draft of this report, and requested that it send its observations to it within a period of three weeks. On December 15, 2015, the State submitted its observations.

25. The Commission thanks the Mexican Government for the invitation to conduct the visit, as well as all the logistical support and assistance provided to make it a success. The Commission acknowledges and values the information furnished by the government, as well as its willingness to undertake constructive dialogue with the IACHR. The Commission likewise thanks the Government and the people of Mexico for the hospitality the delegation was shown. The IACHR highlights the availability, support, and collaboration shown both in organizing and during the visit. The Commission expresses its gratitude to all the actors it met with during its visit and values the information gathered and testimonies heard. The IACHR recognizes in particular, the victims and families who shared their testimonies and experiences with the delegation.

26. This report is divided into six chapters: The first contains the introduction to the report. The second chapter outlines an analysis of the factors that give rise to the violence in Mexico. The third chapter describes the structure of the Mexican State with regard to protection of human rights in the country, as well as its relationship with international human rights law. The fourth chapter addresses the situation of violence and citizen insecurity that Mexico is facing, with a focus on disappearances, attacks on life and personal integrity, the situation of persons deprived of liberty. Chapter 5 addresses the situation of human rights defenders, as well as journalists and attacks on freedom of expression. The sixth chapter addresses the response of the Mexican State to this situation, as well as access to justice. The seventh chapter contains the report’s conclusions and

Friendly Settlements and in Cases Pending before the IACHR involving Mexico. Washington, D.C., October 15, 2015.

The following precautionary measures were awarded to beneficiaries in Mexico in 2015: PM 5/15 – José Moisés Sánchez Cerezo, Mexico, January 26, 2015; PM 455/13 – Nestora Salgado Garcia, Mexico, January 28, 2015; PM 13/15 - Norma Mesino Mesino and 10 members of her family, Mexico, February 25, 2015; PM 314/13 – X, Y, and Z, Mexico, March 6, 2015; PM 77/15 - Defenders E. and K. and their relatives, Mexico, April 27, 2015; PM 106/15 - Cruz Sánchez Lagarda and others, Mexico, April 27, 2015; and PM 215/15 – Alejandro and others, Mexico, June 30, 2015.

In exercising the powers granted to it under Article 41 of the American Convention on Human Rights and Article 18 of its Statute, in 2015 the IACHR requested information from the State of Mexico regarding the following specific issues: Initiative for a General Law of Transparency and Access to Public Information, March; Reports of alleged slaughter in Apatzingan, Michoacan, May; Murders in electoral context in Mexico, June; and Events occurred in Villahermosa, Tabasco on August 14, 2015, August.

The Inter-American Commission on Human Rights (IACHR) had an on-site visit to Mexico that lasted from September 28 to October 2, 2015. The Commission observed the general human rights situation in the country, with particular emphasis on extrajudicial executions, forced disappearances, and torture. Additionally, the IACHR focused on the situation of citizen insecurity, access to justice for victims of human rights violations, and the situation of journalists, human rights defenders, and other groups particularly affected by the context of violence in Mexico. An annex with its preliminary observations on the situation of human rights in the country was issued alongside the press release of the visit.

In his role as Rapporteur on the Rights of Persons Deprived of Liberty and Rapporteur on Mexico, Commissioner James Cavallaro of the Inter-American Commission on Human Rights (IACHR) conducted a working visit to Mexico on September 22-24, 2015. The purpose of the visit was to monitor the human rights situation of people in custody in that country, as well as to carry out activities related to the mechanisms for friendly settlement and follow-up on petitions and cases.
recommendations. The Commission presents the recommendations with the aim of assisting the Mexican State in its efforts to safeguard human rights in the country.
CHAPTER 2
BRIEF ANALYSIS OF THE FACTORS BEHIND VIOLENCE IN MEXICO
Chapter 2 Brief Analysis of the Factors behind Violence in Mexico

BRIEF ANALYSIS OF THE FACTORS BEHIND VIOLENCE IN MEXICO

27. Mexico has been undergoing a grave crisis of violence and security for several years. During the administration of former President Felipe Calderón and the 2006 launch of the so-called “war on drugs,” serious situations of violence rose to alarming levels, as did the subsequent loss of more than 100,000 human lives, disappearances and a context that has caused the displacement of thousands of people in the country. This situation has significantly impacted the respect for and enjoyment of human rights. The Commission considers it pertinent to give a brief analysis of the factors that give rise to the violence in Mexico in order to better understand how it affects the country’s overall human rights situation.

28. A sample of the situation of violence shows that in August 2014, the Mexican government reported a total of 22,322 persons unaccounted for, 44% of whom were registered since December 2012. According to the National Registry of Missing or Disappeared Persons, the number of people not found in Mexico, as of September 30, 2015, is 26,798. Regarding homicides, according to information provided by the UN Special Rapporteur on extrajudicial, summary or arbitrary execution, 102,696 intentional homicides were committed between December 2006 and November 2012. During the current administration, the President reported in his Third Government Report address, delivered on September 1, 2015, more than 94,000 homicides (intentional and negligent) in the current administration: 2012: 38,224; 2013: 34,903, 2014: 32,631; 2015: 27,047 (including up to September).

29. Though the violence is widespread throughout much of the country, its impact has been harsher in certain regions. The states along the border with the United States—Baja California Norte, Sonora, Chihuahua, Coahuila, Nuevo León, and

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4 “The National Register of Data of Missing or Disappeared Persons (RNPED) includes data from “not found” people that were obtained from reports made to the corresponding ministerial authority. This record includes only people who, to date, remain to be found, namely, does not count people who have already been located. http://secretariadoejecutivo.gob.mx/rnped/consulta-publica.php; “The numbers show the total records of persons related to preliminary investigations in [both common and] federal investigations started in the period between January 2014 and July 2015, and remain unaccounted to July 31, 2015.” Available at: http://secretariadoejecutivo.gob.mx/rnped/estadisticas-fuerocomun.php

5 The registered statistics are mostly related to disappearances between 2007 and 2015. In addition, there are also statistics about disappearances before 2007 and others that do not have a specified date. As of September 30, there were 880 disappearances under federal jurisdiction, and 25,918 in local jurisdictions. See Executive Secretariat. Available at: http://secretariadoejecutivo.gob.mx/rnped/consulta-publica.php.


Tamaulipas—have particularly felt the effects of drug trafficking and organized-crime related violence. It is important to highlight that the violence is closely related to the presence of military forces in various areas of the country with the presence of organized crime, drug trafficking and social conflicts. The main migrant transit regions – the Isthmus of Tehuantepec in the southwest and the Chiapas-Tabasco-Veracruz-Tamaulipas corridor – are also hard hit by drug, weapons, and human trafficking-related violence. The state of Michoacán has seen a surge in self-defense forces (*autodefensas*) and community policing, in addition to the Ecuandureo shootout and Apatzingan massacre this year.

30. This serious human rights crisis was verified on the ground and is characterized by an extreme situation of violence and insecurity; critical rates of impunity; and inadequate and insufficient care for victims and their relatives. The effect of the violence and violations of fundamental human rights is especially grave and disproportionate for individuals in poverty and/or in marginalized areas, including immigrants, asylum seekers, refugees, and the internally displaced; women, children, and adolescents; and human rights defenders, journalists and indigenous peoples, among others. The goal of the violence against human rights defenders, justice operators, and journalists is to silence the allegations and the cries for truth and justice, as well as to perpetuate impunity for grave human rights violations. In this context, on every stop during its visit, the IACHR met with victims, their relatives, and human rights defenders who described the obstacles they have faced in their quests for justice and their distrust of the authorities. The lack of access to justice has created a situation of structural impunity, the effect of which is to perpetuate and in certain cases encourage the repetition of grave human rights violations. The threats, harassment, murders, and disappearances of individuals seeking truth and justice have had the effect of intimidating Mexican society. The IACHR confirmed this through the repeated testimony of individuals who have not reported violations out of fear of retaliation, creating a serious problem of under-reporting in official numbers.

31. In its observations to the draft report, the State expressed that it does not share the description of the general context developed in this section. The State indicated that the IACHR did not include or consider adequately the following factors: Mexico’s geographic, sub-regional and regional context and the complex problema of crime, drug and weapons trafficking and illicit flows of capital; the effort that Mexico has undertaken to face these challenges, which has been accompanied by important advances in terms of strengthening the legal framework for the prevention of violence and for the protection of human rights, such as the reforms to the criminal justice system in 2008, the constitutional reform of 2011, and after this latter one, other important developments in the legislation and public policies, such as draft general laws regarding disappearances and eradication of torture; the role and prestige of the armed forces in tasks related to the protection of the population, and their role to assist in the tasks of the police corps. The State informed that the presence of armed forces throughout the national territory is not
permanent or generalized, but rather it is a consequence of specific needs in certain regions. 8

32. In its observations to the draft of this report, the State stated that Mexico shares a border with the United States, which spends around 130 billion dollars a year on illegal drugs. With those resources, transnational organized crime has an enormous capacity to spread violence and corruption. According to the State, the market for illegal drugs is fed primarily by the access to weapons coming from the United States, which give criminal groups an astounding capacity for violence. That is why Mexico spearheaded the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials (CIFTA), the Protocol against Illicit Manufacturing of and Trafficking in Firears of the United Nations Convention against Transnational organized Crime, and the United Nations Arms Trade Treaty. The State indicated that it is not possible to separate what happens in Mexico from what happens in the United States when it comes to drug trafficking. It is two sides of the same coin.9

33. Regarding drug policy in Mexico, the State stated that the policy is based on compliance with international commitments that arise from the three United Nations Conventions regarding regulation of drugs, as well as the political documents of the UN itself, as well as the Organization of American States (OAS), in particular the Hemispheric Strategy on Drugs and its 2010-2015 Plan of Action. According to the State:10

Mexico’s drug policy is comprehensive. It grants a lot importance to observing the principles of shared and common responsibility, of a balance between the measures to reduce supply and demand, as well as its aim to prioritize human rights from a focus on prevention and public health. That is, the drug policy is a lot more than the prosecution of crimes related to production, trafficking, or sales of illicit drugs, given that national efforts involve measures that range from public health, prosecution of justice, and fostering development.

A. Main Sources of Violence

1. State Actors

34. In this context of the fight against drug trafficking and the consequent militarization of zones of the country, various authorities, such as the federal, state,
and municipal police, members of the armed forces, and even public prosecutor’s offices have been tied to alleged serious human rights violations that have gone unpunished. Moreover, the Commission has received a constant stream of information from civil society organizations reporting that the advances made in human rights in Mexico contrast with practices violating human rights, like forced disappearances, extrajudicial executions, claims of torture perpetrated by federal and state officials and the armed forces, violence and overcrowding in prisons, the abusive use of pre-trial detention, lack of guarantees protecting freedom of expression, communication interception, among others.

35. In recent years, a number of high-profile incidents have taken place where State agents have been involved in acts of violence. These incidents, which were widely reported in the media, included the murder of 22 people in Tlatlaya, Mexico State, in June 2014, some of them allegedly extra-judicially executed by members of the Army, leading to charges against some soldiers for first degree murder, among other alleged crimes; the murder, wounding, and disappearance of teaching students in Iguala, Guerrero, in September 2014; the death of civilians allegedly at the hands of members of the Federal Police in Apatzingán, Michoacán, in January 2015; the alleged attacks on civilians carried out by soldiers in Ostula, Michoacán, in May 2015; and the alleged confrontation at Rancho Del Sol in Ecuandureo, Michoacán, in June 2015, where 42 civilians and one member of the Federal Police lost their lives. In addition, there have been numerous acts of violence and murder perpetuated against journalists. Excluding countries that are at war, Mexico is considered one of the most dangerous countries in the world in which to practice journalism.

36. In fact, in Mexico state actors can be seen as sources of violence, be they armed forces such as the National Defense Ministry (SEDENA) or the Navy (SEMAR); the Federal Police and various corps of state and local police; members of the Attorney General’s Office, an of the various prosecutors’ offices of the federal entities; personnel from the prison system, both federal and local; as well as members of other state agencies, such as the National Immigration Institute (INM). The response by the State to acts of violence frequently increases the number of police (or even military) agents who operate in areas of the country with the highest levels of violence.

37. The participation of the military in citizen security activities in contemporary Mexico had been seen in the decades of the 1960’s and 1970’s, and subsequently in the 1990’s with the armed uprising in Chiapas, in the south of the country. This

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11 For additional details regarding the advances regarding human rights, see section on the State’s Response.
12 Visit of the Inter-American Commission on Human Rights to Mexico: Information from the Mexican State,” Mexico City, Mexico, September 25, 2015, Section 1.4, p. 23.
participation intensified significantly and reached large vast areas of the country starting in late 2006, and continues to be a concern almost a decade later. According to the United Nations, in 2012, there were 50,000 soldiers working on citizen security.\textsuperscript{15} According to SEDENA itself, soldiers continue to participate actively in anti-drug trafficking operations.\textsuperscript{16} In operations to combat drug trafficking, SEDENA reports having detained more than 17,000 individuals so far in the current presidential administration: 559 in December of 2012; 7,040 in 2013; 6,195 in 2014, and 3,227 through July 2015.\textsuperscript{17} The domestic citizen security operations carried out by the armed forces have led to a considerable number of complaints of human rights violations. According to numbers from SEDENA, the National Human Rights Commission (CNDH) has made 115 recommendations related to human rights violations by members of the military in the form of torture, homicide, rape, and other violations;\textsuperscript{18} and in confrontations between soldiers and civilians between 2007 and 2012, the dead included 158 soldiers, 2,959 “alleged” civilian attackers, and 40 “individuals not involved in the incidents.”\textsuperscript{19}

38. In its observations to the draft of this report, the State indicated that starting in 2013 the recommendations addressed to SEDENA decreased notably. The State informed that from December 1, 2012 to November 28, 2015, 2,007 complaints have been filed at the National Human Rights Commission (CNDH) for acts that allegedly constitute human rights violations attributable to military personnel—without specifying which ones. Of those, 1,625 were concluded by the CNDH and 382 are currently pending, noting that between January 1 and December 31, 2014, compared to the same period in 2012, there was a decrease of 42.10% and, compared to 2014, there is a decrease of 60.52%, as well as a 63.50% decrease to date in 2015. Regarding SEMAR, the State informed that from December 1, 2012, to November 27, 2015, it received 1,105 complaints from the CNDH; however, 652 were concluded without any recommendation to SEMAR, while only 9 recommendations have been notified to that Ministry. Given this, there is a

\textsuperscript{15} United Nations, \textit{Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, after his visit to Mexico}, December 29, 2014, para. 20.

\textsuperscript{16} SEDENA, Combating drug trafficking, Results of Seizures. Available at: http://www.sedena.gob.mx/–actividades/combate-al-narcotrafico (last accessed on August 27, 2015). In addition to marijuana and cocaine, SEDENA provides statistics in its drug trafficking seizure results on heroin, opium gum, methamphetamines, land vehicles, aircraft, ships, firearms, grenades, ammunition, detained individuals, US dollars, Mexican currency, secret laboratories, secret airstrips, hectares of marijuana eradicated, and hectares of poppies eradicated.

\textsuperscript{17} SEDENA, Combating drug trafficking, Results of Seizures, Detention of Persons, last updated July 1, 2014. Available at http://www.sedena.gob.mx/images/stories/archivos/ocn/2015/detenidos.jpg (last accessed on August 27, 2015)


\textsuperscript{19} SEDENA, Human rights, Complaints and recommendations, Attacks on military personnel, last updated July 1, 2014. Available at: http://www.sedena.gob.mx/derechos-humanos/agresiones-contra-personal-militar (last accessed on August 28, 2015).
downward trend in terms of recommendations from CNDH to SEMAR between 2013 and 2015.\textsuperscript{20}

39. The State also notified that, according to the National Institute for Statistics and Geography (INEGI), in the face of existing situations of violence derived from organized crime, Mexican society recognized the armed forces as an institution that has provided protection and in which they have the most confidence, above other institutions.\textsuperscript{21}

40. During its visit, the Commission was able to confirm with extreme concern that the involvement of the armed forces in citizen security activities continues, and there is no expected date for its conclusion.\textsuperscript{22} In its observations to the draft of this report, the State noted that: “the temporary and extraordinary participation of the federal forces in tasks that are of local competence is undertaken in full coordination with the different state authorities, in the framework of the coordination agreements subscribed pursuant to section XVII of article 27 of the Organic Law of the Federal Public Administration, which allows the participation of federal authorities in public safety roles when it is requested by local authorities.”\textsuperscript{23} This issue is examined later on in this report.

2. Organized Crime

41. In Mexico, like in other parts of Latin America, "corruption and impunity have enabled criminal organizations to develop and establish parallel power structures."\textsuperscript{24} In many cases, criminal groups act in apparent direct collusion with State authorities, or at least with their acquiescence. In line with this, the Ayotzinapa case is an emblematic example of collusion between State agents and members of criminal organizations, since according to the official version of events, the Iguala municipal police colluded with a criminal group to disappear the students. In addition, according to the GIEI, members of the state police, the federal

\textsuperscript{20} Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015. See also, Public hearing, Reports of Extrajudicial Executions in Mexico, October 20, 2015.

\textsuperscript{21} The figures provided by the State indicate that according to the survey carried out by INEGI in 2015, 81.6\% of the population identify the Navy (SEMAR) as the institution in which they have the most confidence, (84.4\% in 2014); followed by the Army (SEDENA) with 77.6\% (80.7\% in 2014), and the Federal Police with 56.2\% (57.5\%). Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.

\textsuperscript{22} On the contrary, it was public knowledge that hundreds of soldiers were deployed in the state of Michoacán in October 2015 to continue performing citizen security operations. See news article published on AnimalPolitico.com, “Desplazan a 500 militares en nuevo ‘Operativo Michoacán’” (500 soldiers deployed in “Operation Michoacán”), October 18, 2015. Available at: http://www.animalpolitico.com/2015/10/desplaza-zan-a-500-militares-en-nuevo-operativo-michoacan/.

\textsuperscript{23} Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.

police, and members of the army were present during the events.\textsuperscript{25} Therefore they may have also been colluded with organized crime groups.

42. The impact of drug trafficking in Mexico is complex given the country’s geographic location and border of nearly 3,000 kilometers with the United States of America, the main destination country for narcotics in the hemisphere.\textsuperscript{26} Mexico is a country of origin, a transportation route, and a destination market for drugs, which no doubt goes hand in hand with the high crime rates Mexicans are currently experiencing.

43. The de facto power exercised by drug cartels in the country added to the degree of corruption of many State agents enabling those cartels to act with impunity in many cases foster the high levels of violence battering the country.\textsuperscript{27} According to government figures, in 2014, 6,809 intentional homicides were recorded, allegedly related to rivalries between organized criminal groups, mainly alleged drug traffickers.\textsuperscript{28} The fragmentation of the drug trafficking cartels as a result of the arrest of their leaders and the dismantling of some groups; disputes over control of territory; and the new alliances between the same criminal groups, as well as the emergence of new criminal groups, have all exacerbated the phenomenon.\textsuperscript{29}

\textsuperscript{25} These are some excerpts of the report of the Group of Experts in this regard: “In addition to the municipal police forces of Iguala and Cocula that were the direct aggressors, in the two crime scenes at Juan N. Alvarez and at the Palace of Justice where normalistas were arrested and where there were forced disappearances, members of the army, the federal police and the ministerial police were also present at different times […] Later, another army patrol vehicle arrived between 6 and 7 am and protected the place where Julio Caesar Mondragón’s tortured dead body had appeared, before the civil authorities arrived,” p. 318; “The level of intervention of the different police forces in the various crime scenes and the attacks at different times as portrayed in the documents, testimonies and expert opinions evaluated by the IGIE clearly show there was coordination and a chain of command in order to carry out such actions. The operational necessity of coordination between the police forces from two different municipalities (Iguala and Cocula), and at least 18 municipal patrol cars and one from the Civil Defense that participated in what happened that night indicate there necessarily had to be a central coordination level from which orders were issued,” (p.318). “The scenes of violence that night of show a panorama of defenselessness of the victims before the aggressors. This not only due to the fact that is was the municipal police, but because no other police force of the State took action in protection of the normalistas in spite of having knowledge of the facts or being present in some of the crime scenes when the crimes took place and in spite of the fact that they had been witnessing the level of aggression and human rights violations,” p. 325). GIEI, Ayotzinapa Report, Investigation and first conclusions of the disappearance and murders of the teaching students of Ayotzinapa. Official Translation from the Summary, Ayotzinapa Report.


\textsuperscript{27} According to information received by the Commission, up to 98% of the crimes committed in Mexico remain in impunity. IACHR, Hearing on citizen security and human rights in Mexico, 143rd Period of Sessions, Washington, D.C., October 27, 2011. Available at: http://www.oas.org/es/cidh/audiencias/Hearings.aspx?L=ang=es&Session=123&page=2

\textsuperscript{28} Main Progress in Security Policy 2014, Secretary of Governance (SEGOB), Secretary of the National Defense (SEDENA), Secretary of the Navy (SEMAR), and the Office of the Attorney General of the Republic (PGR). Available at: http://www.senado.gob.mx/sgsp/gaceta/62/3/2015-02-24-1/assets/documentos/Informe_Politica_de_Seguridad_2014.pdf

\textsuperscript{29} Mexico’s organized crime groups include the Sinaloa Cartel, the Gulf Cartel, the Jalisco New Generation Cartel, the Knights Templar, the Michoacan Family, Warriors United, the Zetas, the Line, the Juárez Cartel, the Beltrán Leyva Cartel, The Reds, The Ardillos, and many others.
44. The organized criminal groups focus mainly but not exclusively on drug trafficking. Their other criminal activities include assassinations, extortion, kidnapping, robbery, protection money, control of immigration routes, illegal immigrant trafficking and human trafficking, and arms trafficking, among others. As for the kidnappings, they often murder their victims even after their relatives have paid the ransom. This diversification of criminal activity added to the real power these groups exercise in a large portion of the country turn the phenomenon of organized crime into the main source of violence committed by private actors in Mexico, and at the same time it entails Mexican State responsibility due to its failure to effectively respond to the problem.

45. The issue of organized crime is also reflected in threats and forced recruitment of persons. For example, in April of 2015, the IACHR requested the Mexican State to adopt precautionary measures in favor of the “El Manzano” community in the state of Chihuahua. The Commission determined that this community had received threats and that young people in the community had been murdered, allegedly in the context of recruitment by organized criminal groups. The IACHR has also received countless reports of violence connected to the activities of criminal organizations in the context of human mobility in recent years. These include the kidnapping and murder of 72 immigrants in August 2010 and the later discovery of 193 bodies of immigrants in 2011, both of which took place in the municipality of San Fernando, Tamaulipas, as well as multiple unresolved reports of confrontations, extortion, kidnappings, rapes, femicides, torture, robbery, and other related crimes. The Commission has also learned how organized criminal groups control immigrant and human trafficking networks.

46. During its visit, the delegation from the Commission confirmed that many individuals, including victims of human rights violations and their relatives, human rights defenders, and trade unionists, have been threatened, intimidated, and subjected to other forms of coercion by organized criminal groups. These threats often result in violence, including extrajudicial killings, disappearances, and assaults.

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30 When organized criminal groups charge business owners and even citizens who do not own businesses a fee in exchange for not “bothering” them, that is, not committing acts of violence against them.


33 Information received during the in loco visit of the IACHR, September 28-October 2, 2015. Also see IACHR, Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico, OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 100.

34 IACHR, Precautionary Measures. 105-15. Matter of Cruz Sánchez Lagarda et al. regarding Mexico. April 27, 2015. In its observations to the draft of this report, the State stated the representatives of the beneficiaries have requested that the Army be the one to provide security to the beneficiaries. Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015. See also, IACHR, Public Hearing, Reports of Extrajudicial Executions in Mexico, October 20, 2015.


36 IACHR, Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico, OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, paras. 100: “(...) the main difference that distinguishes the present situation from the situation in 2002 is the full involvement of organized crime groups, especially drug cartels, in activities associated with migrant abduction, human trafficking, smuggling of migrants, and the other crimes and human rights violations that they commit in the process.”
rights defenders, members of the justice system, and journalists, are exposed to the violence that these criminal groups represent. The Commission received testimony—especially in the rural parts of the country—on the collusion between criminal groups and members of the municipal police forces. Some Mexican authorities have also recognized to the IACHR that many municipal police officers are either overwhelmed or coopted by organized crime.

3. Other Actors as Sources of Violence

In addition to the main sources of violence mentioned so far, there are other sources that exacerbate the problem in certain areas of the country. In recent years, and especially in states in the center and south of the country, the phenomenon of “community police forces” or “self-defense groups” has arisen. According to information the Commission has received, the self-defense groups are groups of civilians that have taken up arms supposedly to defend and protect their communities from criminals, especially from organized criminal groups. They do so in response to the absence of an effective State presence to enforce the rule of law.

The self-defense groups (autodefensas) emerged at the beginning of 2013 mainly in rural areas of the country with high rates of crime and impunity, although they have emerged in urban and semi-urban areas as well. At the beginning, a common denominator of a majority of the self-defense groups was desperation at the high crime rates in their communities, which they say government forces have not been capable of controlling. Over time, some of these groups have transformed into violent, criminal groups. This has been the case with some groups in Michoacán, which supposedly started as community self-defense groups but then turned into drug cartels, contributing to the increase in violence in the region. The supposed evolution of self-defense groups reaffirms the IACHR’s concern that they arose in reaction to the high levels of violence in some areas of the country and the State’s inability to address this problem, but that in the end, some have simply turned into additional sources of violence.

Testimony received during the in loco visit in Mexico City, Nuevo León, Coahuila, Guerrero, and other places, September 28-October 2, 2015.

Meeting between the plenary of the IACHR and federal authorities at the offices of the Secretary of Foreign Relations, Mexico City, September 28, 2015.


Information available to the public indicates that the first self-defense group was formed on February 24, 2013, in the municipality of Tepalcatepec, Michoacán, but some groups had been formed prior to that.


The Mexican State invited the Commission to visit Michoacan during the in loco visit, but due to logistical limitations during the visit it was not possible to visit this federal entity during this visit.
In its observations to the draft of this report, the State indicated that in the face of the insecurity conditions in certain specific municipalities in the state of Michoacan, different armed civilian groups emerged. To address this phenomenon, the Federal Government, in response to an express request by the state government, entered into an agreement establishing the terms to provide support in terms of public safety. The State informed that the Federal Police assumed the control of public safety tasks in municipalities where there were the highest crime rates, and developed permanent surveillance tasks in coordination with the authorities of all three levels of government. This way, according to the State, this action allowed it to contain the crime levels in the region through the presence of authorities and the prompt attention to citizen reports. The Federal Police developed different actions to create cooperation links with the population, foster the reporting of crimes and strengthen trust in security institutions. Similarly, it indicated that with the strengthening of the public safety and justice institutions, armed civilian groups have seen their demands addressed. According to the State, only those persons who were able to comply with the necessary requirements were incorporated institutionally into the police work in their communities.  

According to the information available to the Commission, in May 2014, some self-defense groups agreed to register themselves and their arms with the SEDENA in a symbolic act in the municipality of Tepalcatepec, Michoacán. The Mexican State registered these groups, trained them on what kinds of weapons were allowed, and incorporated them into a new State force called the Rural Police. The Commission has closely followed the evolution of these self-defense groups, as well as the State’s response to them. The IACHR observed with concern the incidents that took place in Apatzingán, Michoacán, in January of 2015 when members of the Federal Police supposedly attacked members of a self-defense group, resulting in civilian deaths.

Additionally, the IACHR has received information on private security forces in Mexico. According to some reports, many of these have arisen in response to the incompetence of State security forces. Some large national and international companies have their own private security forces. Private security forces also tend to be sources of violence. Should these private companies commit human rights violations, the State could be responsible, since the guarantee of human rights

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47 The IACHR has indicated that “The privatization of the functions involved in citizen security is a departure from the concept of human rights, where the State is responsible for guaranteeing that citizen security is defended, protected and ensured. Instead, citizen security becomes a mere product to be bought on the market and, in most cases, is available only to those sectors of society with the means to buy it.” IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II, doc. 57, December 31, 2009, para. 72.
associated with citizen security implies state responsibilities on the matter. During its in loco visit, the IACHR was able to observe the proliferation of private security forces in Mexico as a new but growing phenomenon. The scarcity of available information makes it difficult to properly analyze the impact of privatization, since information is not publicized on contracts with private security companies, but it is sufficient to formulate some conclusions.

52. Similarly, the IACHR has received information regarding the growing trend of private companies operating some of Mexico’s penitentiaries. As with the proliferation of private security forces, the IACHR expresses concern at the lack of legislative framework to properly regulate the private security forces that operate in the country.

B. Other Factors that have an Effect in the Situation of Violence

53. Other factors exacerbate the situation facing the country. The impact of these factors on different sectors of the population varies depending on geographic location, age, socioeconomic situation, and other factors. In a country as large as Mexico, with an estimated population of 120 million people, not only are the factors behind the violence very complex, but they vary by region. Still, some of the factors that the IACHR considers it appropriate to highlight include the socioeconomic situation of the individuals; immigration routes; drugs and arms trafficking.

1. Socioeconomic Situation

54. Social and economic inequality in the hemisphere is one of the main generators of violence according to the United Nations Office on Drugs and Crime (UNODC). The most recent figures published by the National Council for the Evaluation of Social Development Policy (CONEVAL) indicate that there are approximately 55.3 million people living in poverty in Mexico, 11.4 million of which live in extreme poverty.
poverty. That is, almost half of Mexico’s population (46.2%) lives in poverty, while according to information the Commission recently received, the richest 1% of the population controls more than a fifth of the country’s wealth. Inequality has a particular effect on the most vulnerable sectors of the population, such as indigenous peoples—among whom the poverty rate is four times higher—and immigrants. This situation contributes greatly to the levels of violence in the country. According to World Bank data, the level of inequality in Mexico between the 1990’s and 2012 has been modestly but gradually reduced, although it has suffered some ups and downs.

In Mexico, the areas of the country with the highest rates of violence are also the areas with the highest rates of poverty, inequality, and marginalization. According to a study commissioned by the World Bank, a one point increase in the Gini coefficient at the municipal level correlates with an increase of 10 drug trafficking-related homicides per 100,000 inhabitants. According to World Bank figures, the Gini index in Mexico was 48.1 in 2012, in a scale from 0 to 100 in which 0 represents perfect equality and 100 represents perfect inequality. According to the National Council for the Evaluation of Social Development Policy, the Gini index went from 49.8 to 50.3 between 2012 and 2014, which means the level of inequality increased. Menawhile, the average in Latin America in 2013 was around 50.7. Some of the socioeconomic factors that have an impact on the levels of violence in Mexico include inequality and social exclusion, poverty, stigmatization and stereotypes, unemployment (especially of young people), low salaries, discrimination, forced immigration, low levels of education, unstable housing conditions, insufficient healthcare services, easy access to weapons, and the like.

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56 The Gini coefficient is a tool used in Economics to measure inequality.


58 World Bank, Data, Gini Index. Available at: http://datos.bancomundial.org/indicador/SI.POV.GINI. The most recent figures in the World Bank Data are from 2012.


60 Inter-American Development Bank, “Inequality in Latin America: A change of direction?” Available at: http://www10.iadb.org/intal/cartamensual/cartas/Articulo.aspx?id=c6784605-010d-4a07-8568-22416ef16-3db
impunity, among others. According to some estimates, in Mexico there are approximately one and a half million children between the ages of 5 and 17 who do not study or work, which contributes to them being more easily coopted and exploited by drug traffickers and organized crime groups.

In its observations to the draft of this report, the State indicated that the results of poverty in 2014, carried out by the National Council for the Evaluation of Social Development Policy (CONEVAL), indicated that the percentage of extreme poverty decreased from 9.8% to 9.5%. According to the State, extreme poverty was reduced from 11.5 to 11.4 million people between 2012 and 2014. The number of average necessities among the population in poverty decreased between 2012 and 2014 from 2.4 to 2.3. The average necessities of the population in extreme poverty went from 3.7 to 3.6. Between 2012 and 2014, the percentage of rural population in poverty went from 61.6 to 61.1 percent. In 24 states, there was a reduction in the percentage of population living in poverty or extreme poverty. The increase in income of the decile with highest poverty (decile 1), as well as a decrease in social necessities of that population, contributed to the decrease in extreme poverty between 2012 and 2014.

During its visit to the country, the Commission was able to observe and listen to victims and their relatives describe how the lack of financial resources tends to be one more obstacle to access to justice. For example, some victims and their family members expressed that often public servants charge them or request from them financial contributions and that, if payment is not made, these servants do not carry out their corresponding duties. The Executive Commission for Attention to Victims (CEAV) has found that a lack of financial resources is one of the reasons many people do not report crimes committed against them.

In some rural areas and territories of indigenous communities in the country, violence also takes place in connection with a variety of natural resource extraction projects, highway construction, and other so-called "megaprojects." Violence in this context has a number of different aspects. It takes place mainly

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64 The main barriers have to do with the costs associated with hiring an attorney, transportation to and from the offices where proceedings (which can be lengthy) take place, financial resources and means necessary to pursue the procedures related to the judicial process, and for cases of indigenous people, the lack of knowledge of the language and legal jargon, among other barriers. Facultad Latinoamericana de Ciencias Sociales, Pobreza y Acceso a la Justicia (Poverty and Access to Justice), July 18, 2014, p. 35. Available at: http://bibdigital.flausco.edu.mx:8080/dspace/bitstream/handle/123456789/4013/Torres_MA.pdf?sequence=1
65 Information provided by the Executive Victim Services Commission, “Draft Comprehensive Victim Care Program, 2014-2018,” p. 28 (filed at the IACHR).
when individuals living in the area where a project is to be developed oppose that project. The confrontation with those who propose or support the project then escalates to violence. This type of violence has a particular effect on indigenous peoples and communities and their territories. Some social leaders who oppose mining projects, timber extraction plans, and the construction of dams or highways have been subject to threats, harassment, attacks, torture, and even assassination.

2. Immigration Routes, Drug and Arms Trafficking

Mexico currently serves as a country of origin, a transit route, a destination country, and a place of return for immigrants. Due to its geography, Mexico is strategically located to serve all manner of immigration and commercial flows, which typically move south to north and vice versa. The fact that Mexico is on the southern border of the United States of America, a leading global destination for immigrants, explains why the immigration corridor between these countries is the busiest in the world. The majority of undocumented immigrants entering Mexico do so by land via Mexico's southern border with Guatemala, specifically through certain entry points in the states of Chiapas and Tabasco.

Currently, illegal transnational immigration is one of the main sources of income for organized crime in Mexico and in the region. The involvement of organized criminals in the business of illegal immigration is explained by the high profits earned compared to the low risk and high rates of impunity for these organizations when they commit crimes against immigrants. Through the use of violence and of enormous sums of money for corrupting State officials and authorities, organized criminal groups handle illegal trafficking in drugs, arms, and immigrants. They also operate kidnapping and extortion networks and forced recruitment. At the same time, factors such as the broad transnational scope of these organizations, the convergence of immigration routes and drug and arms trafficking routes, and the collusion of a variety of State authorities have helped organized criminals enter a business that earns them millions of pesos and dollars every year: the exploitation of undocumented immigration. This situation affects in a differentiated manner

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66 Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. Han destruido la vida en este lugar: Megaproyectos, violaciones a Human Rights y daños ambientales en Mexico (They've destroyed the life of this place: Megaprojects, human rights violations, and environmental damage in Mexico), 2012. Available at: http://www.ohchr.org/Documents/Issues/FAssociation/NaturalResource/Centro_de_DDHH_S.pdf

67 Centro de Derechos Humanos Miguel Agustín Pro Juárez, A.C. Han destruido la vida en este lugar: Megaproyectos, violaciones a Human Rights y daños ambientales en Mexico (They've destroyed the life of this place: Megaprojects, human rights violations, and environmental damage in Mexico), 2012, p. 6.

68 Mexico is by necessity the entryway for a mix of different migrant flows composed of hundreds of thousands of immigrants (both documented and undocumented) asylum applicants, refugees, and victims of human trafficking, all of whose main destination is the United States and, to a lesser degree, Canada. IACHR, Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico, OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, paras. 53-54.

69 Individuals from Guatemala, Honduras, and El Salvador represented between 93% and 90% of immigrants detained for being undocumented in Mexico. Government of Mexico, INM, Immigration Statistics. September 28, 2015, p. 2. [Document in the archive of the Commission].
children and adolescents who, whether alone or accompanied, travel through these routes.

61. The majority of immigrants travel along isolated routes and areas in an attempt to avoid detection by authorities. These routes mainly include the Isthmus of Tehuantepec and the Tabasco-Veracruz-Tamaulipas immigration corridor.70 These routes tend to coincide with routes for trafficking drugs and arms, which are controlled by drug trafficking cartels and organized criminal groups. This quickly exposes immigrants, asylum applicants, refugees, and human trafficking victims to contexts in which criminal organizations have been able to establish a generalized regime of violence and serious human rights violations, in some cases with the collusion of State authorities.71

62. Arms trafficking also affects the levels of violence. The General Directorate of the Federal Fire Arms Registry and Explosives Regulation, a division of SEDENA, is the department in charge of registering guns, pursuant to the Federal Firearms and Explosives Act. Mexican law allows gun ownership, but only of certain calibers and for certain purposes.72 The law establishes specific requirements for the sale of firearms, including registration and obtaining permits from SEDENA, as well as sanctions for failing to comply with those requirements.73 Despite this legislation and the formal requirements with regard to the ownership and sale of guns, as well as the international treaties on the subject to which Mexico is a party,74 the information indicates that in reality, there is a worrying amount of illegal arms trafficking in Mexico.75 The arms trafficked from abroad come mainly from the United States of America.76 The presence and financial power of the drug cartels increases demand for guns in Mexico, which are relatively easy to get in the United States.77 From 2009 to the present day, the portion of illegal guns entering Mexico

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70 IACHR, Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico, OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013, para. 89.
72 The Federal Firearms and Explosives Act allows gun ownership for protecting a home, protecting land or communal land; hunting; collecting; and carrying. Certain additional requirements apply to each of these scenarios. Federal Firearms and Explosives Act, published in the D.O.F on January 11, 1972, final amendment published on January 23, 2014, Second Heading, Ownership and Carrying, article 7.23, available at: http://www.senado.gob.mx/comisiones/defensa_nacional/docs/LFAFE.pdf
74 Mexico is a State Party to the Inter-American Convention against the Explicit Manufacturing of and Trafficking in Firearms and the Arms Trade Treaty.
77 Report of the Bureau of Alcohol, Tobacco, Firearms and Explosives of the United States Justice Department, Mexico, March 10, 2015. Available at: https://www.atf.gov/file/2751/download. News article published on
from the United States has remained stable at around 70% of all illegal guns entering the country.\textsuperscript{76} According to information from experts, there may be as many as 20 million unregistered firearms in Mexico.\textsuperscript{79} To prevent arms trafficking and easy access to guns from contributing to the wave of violence, it is crucial for the State to comply with and enforce the legal requirements for owning, carrying, and selling guns, as well as its international obligations on the issue.\textsuperscript{80}

3. Impunity and its Grave Consequences for the Rule of Law

63. The climate of generalized violence described in the previous sections has serious consequences for the rule of law in the country. The IACHR has indicated that the lack of due diligence in response to acts of violence gives rise to impunity, which in turn leads to new incidents of the same kind of violence that should have been eliminated.\textsuperscript{81} In particular, when violent crimes—whether committed by private parties or State agents—end up in impunity, the violence is perpetuated, as the perpetrators do not face the consequences of their actions, creating a spiral of impunity. It has also been corroborated that the impunity that surrounds the majority of acts of violence contributes to their repetition.\textsuperscript{82} This impunity is itself a form of discrimination in terms of access to justice. This subject will be addressed in more detail in Chapter VI of this report.

64. The current crisis of serious human rights violations Mexico is experiencing is in part a consequence of the impunity that has persisted since what is known as the “dirty war” and that has contributed to its repetition up to the present.

65. According to information received by the IACHR, more than 98% of crimes committed in Mexico remain in impunity.\textsuperscript{83} Records show that hundreds of complaints of torture and other mistreatment made to judges who have forwarded them to the PGR, and the CNDH has sent more than 115 recommendations to

\textsuperscript{78} Desarma México, \textit{Data on firearms}, report submitted to the IACHR, September 5, 2015, p. 3 (IACHR archive).
\textsuperscript{80} Mexico signed the Arms Trade Treaty on June 13, 2013. The Senate of the Republic ratified the treaty on September 19, making Mexico the first country in Latin America to do so. The treaty is available at: http://www.thearmstradetreaty.org/images/ATT_documents/TratadosobreelComerciodeArmas.pdf
SEDENA on torture, homicides, rapes, and other mistreatment. The CNDH also reports that it has issued 15 recommendations on forced disappearance to governors, the Ministry of the Interior, SEDENA, municipal presidents, SEMAR, the Secretary of Public Safety, and others, regarding at least 40 victims. Despite this number of torture complaints, which have led the PGR to open 2,420 investigations into torture, the State has reported only 15 convictions for this crime. For its part, the CNDH reported that despite the fact that the crime of forced disappearance is defined in all 27 federal entities, so far not a single conviction has been handed down for this crime. (As will be seen later on, this information conflicts with other information provided by State authorities.) In a study on impunity, Mexico was second to last (58 of 59) among the countries where levels of impunity were studied, as measured by security, justice, and human rights.

This level of impunity, which has historically been high in Mexico, perpetuates the violence, as the actors responsible for the violence do not suffer the consequences of their actions. The Commission recalls that States must carry out an “investigation (...) without delay, by all available legal means with the aim of determining the truth and the investigation, prosecution and punishment of the perpetrators.” A lack of capacity or willingness to carry out a serious and timely investigation into incidents of violence increases the perception of impunity in the country. In addition, impunity and corruption erode citizen trust in the

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85 Report of the National Human Rights Commission during the in loco visit of the IACHR, September 27, 2015, p. 13.

86 “Visit of the Inter-American Commission on Human Rights to Mexico: Information from the Mexican State,” Mexico City, Mexico, September 25, 2015, Section 1.3, p. 15. According to press reports, there have been only five convictions for torture at the federal level and eight at the state level over the last 10 years. News article published on ElEconomista.com, “En estados, sólo ocho condenas por tortura en 10 años” (only eight torture convictions in 10 years at the state level), published on September 4, 2015, citing government figures obtained by the Centro de Derechos Humanos Miguel Agustín Pro Juárez. Available at: http://eleconomista.com.mx/sociedad/2015/09/04/estados-solo-ocho-condenas-tortura-10-anos


91 In cases involving grave human rights violations, the Commission and the Inter-American Court have established that amnesties, prescription provisions, and responsibility exclusions that would impede the investigation and the punishment of those responsible, as applicable, are unacceptable. IACHR, Report on Citizen Security and Human Rights, OEA/Ser.L/V/II, doc. 57, December 31, 2009, para. 46 (citing the Inter-American Court, Case of Barrios Altos v. Peru. Judgment of March 14, 2001, Series C No. 75, para. 41; Case of Almonacid Arellano et al. v. Chile. Judgment of September 26, 2006, Series C No. 154, para. 112; and Case of the Ituango Massacres v. Colombia. Preliminary Objections, Merits, Reparations and Costs, Judgment of July 1, 2006, Series C No. 148, para. 402.
authorities, which also leads to impunity that exacerbates the climate of violence. These figures confirm the structural and systemic nature of impunity in Mexico. The problem permeates the police, the courts, and many public prosecutors' offices, producing a generalized perception of impunity. During its in loco visit in 2015, the Commission repeatedly heard complaints from victims and their relatives on this perception and on their generalized dissatisfaction with justice institutions.

Corruption is a closely-related phenomenon and central for understanding impunity in Mexico. The IACHR was informed of allegations of corruption by public officials at various branches and levels of government. According to information from academia, "historical trends of patronage, corruption, and a crisis of representation have resulted in a democratic process that is inefficient, costly, and merely procedural." The accusations of corruption against public officials at the very lowest up to the very highest levels must be investigated in a timely, impartial, and exhaustive fashion. Those responsible must be punished as applicable. According to international standards on the issue, these investigations must be carried out by truly impartial and politically independent bodies that do not in any way answer to the entities they are investigating or supervising. Otherwise, the perception of corruption and impunity persists, and the State’s efforts to combat it will be fruitless. In its observations to the draft of this report, the State indicated that on May 27, 2015 a decree was published on the Official Gazette of the Federation which adopted modifications to the Mexican Constitution to create the National Anti-Corruption System and the National Fiscalization System. According to the State, the objective of these modifications is to “encourage the impartiality and independence of criteria of the investigative authorities and of the sanctioning authorities; achieve a long-term impact to reduce the perception of corruption, and keep it as a governmental practice.”

The sources of and factors behind the violence in Mexico are historically, politically, and socially complex. The mechanisms for combating it must take each of these aspects into account. The following chapter analyzes Mexico’s legal and political system to establish a comprehensive context for the phenomenon of violence.


93 The Commission received this testimony from victims, their relatives, and civil society organizations in every place it visited: Mexico City, Coahuila, Guerrero, Nuevo León, Tabasco, and Veracruz.

94 Information received during the in loco visit to Mexico City, Guerrero, and Coahuila, September 28 and 29, 2015.

95 Document presented by the Universidad Iberoamericana to the IACHR during the in loco visit.

CHAPTER 3
PROTECTION OF HUMAN RIGHTS IN MEXICO
PROTECTION OF HUMAN RIGHTS IN MEXICO

A. Structure of the Mexican State

69. In this chapter the Commission refers briefly to the structure of the Mexican state regarding aspects that are relevant to the analysis that follows. According to the Political Constitution of the United Mexican States, Mexico is a representative, democratic, federal Republic, composed of 31 states and the Federal District, united in a single federation. The supreme executive power of the Republic is exercised by the President of the United Mexican States.

70. The public government of the Federation is divided into the Legislative, Executive, and Judicial branches. The government of the 31 states, in turn, is divided into Executive, Legislative and Judicial branches. The Executive power is exercised by the governors of the various states. The Legislative branches consist of the states’ legislatures. The Judicial branches of the various states are composed of the tribunals established by the respective state constitutions.

71. With respect to the judicial power of the Federation, it is vested in a Supreme Court of Justice, in an Electoral Tribunal, in Circuit Courts, as a “collegiate” body and as single judges in appeals, and in district courts, and a Federal Council of the Judicature. In order to appoint Justices to the Supreme Court of Justice, the President is required to submit a shortlist of three candidates for the consideration of the Senate. After interviewing the candidates, the Senate then designates the justice who will fill the vacancy in question. The Supreme Court is made up of 11 Justices, one of whom is designated as the President. The Plenary is the reunion of all 11 Justices of the Supreme Court of Justice, which is in charge of resolving the most important matters, all of them related to compliance with the constitution and federal laws. The Plenary of the Supreme Court may resolve disputes regarding interpretation of the constitution, and actions related to the lack of compliance with it. In some cases, it can also review judgments issued by other bodies of the federal Judiciary, when the responsible authority does not comply with a federal judgment. The Plenary can also directly resolve matters, or submit them to either Chamber or to the Collegiate Circuit Courts. The Supreme Court is divided in two Chambers, each of which consists of 5 Justices, without the participation of the President of the Supreme Court. Each Chamber has its own president. The First Chamber hears civil and criminal matters, and the Second Chamber hears administrative and labor matters.

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97 In this Report, the Commission uses “State” (upper case S) to refer to the Mexican State in its entirety, and “state” (lower case s) when referring to each one of the federal entities of Mexico.
Among other things, the Plenary of the Court decides *amparo* actions. According to the Law on *Amparo*, the *amparo* action has as its objective to resolve all disputes related to general laws, acts, or omissions by authorities that violate human rights recognized in Mexico, general laws, acts or omissions by federal authorities that violate or curtail the sovereignty of the states of the sphere of competence of the Federal District, as long as there is a violation of a recognized human right and the guarantees established in the Constitution for its protection; and general laws, acts or omissions of the authorities of the states or the Federal District that invade the sphere of competence of the federal authorities, as long as there is a violation of a recognized human right and the guarantees established in the Constitution. The *amparo* is designed to protect persons from general laws, acts or omissions by the public government branches or by private individuals in the cases established by law.

**B. Mexico and International Human Rights Law**

Mexico has ratified a number of international treaties regarding human rights. Among the treaties from the Inter-American Human Rights System ratified by Mexico are the American Convention on Human Rights, the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social, and Cultural Rights “Protocol of San Salvador,” the Protocol to the American Convention on Human Rights to Abolish the Death Penalty, the Inter-American Convention on the Forced Disappearance of Persons, the Inter-American Convention to Prevent and Punish Torture, among others.98

Particularly, in a press release issued in 2014, the IACHR welcomed the withdrawal of the Mexican State of the reservations to three instruments adopted at the Organization of American States, namely: the Convention on the Status of Aliens, the Inter-American Convention on the Forced Disappearance of Persons, and the Declaration Recognizing the Contentious Jurisdiction of the Inter-American Court of Human Rights. In that context, the IACHR recognized that these actions broaden the possibility of protecting those rights recognized internationally by Mexico, and therefore, constitute an important step in the commitment assumed by Mexico towards the promotion and protection of said rights.99

**1. Constitutional Reform regarding Human Rights**

The Mexican legal framework has undergone important progress in terms of human rights in recent years that have been recognized by the IACHR.100 Starting

98 For a complete list of the treaties ratified by Mexico regarding human rights, see (in Spanish): http://www2.scjn.gob.mx/red/constitucion/T1.html


with the reforms of July 2011, the Mexican Constitution raised to constitutional level all human rights norms contained in treaties signed by the Mexican State. Article 1 of the Constitution provides that all persons shall enjoy the human rights recognized in the Constitution and in the international treaties to which Mexico is a party, and establishes guarantees for their protection. This equivalency of the human rights contained in the treaties to which Mexico is a party and their jurisprudence, and the Mexican constitutional norms, represents an improvement in the right direction, but, as discussed below, in practice has faced important challenges.

76. In its observations to the draft of this report, the State indicated that the constitutional reform on 2011 regarding human rights represents the broadest expansion of rights since the adoption of the current Constitution, since the reform entails a root modification in the way authorities must justify their actions. Such actions must be governed by international standards and obligations on the matter to ensure their direct application in the country:

With the reform, the concept of human rights was incorporated into our Constitution, the repertoire of rights was expanded to include all human rights recognized in the international treaties to which Mexico is a Party. In addition, the pro personae principle was included in the expansion and interpretation of human rights norms.

In addition, the reform reflects the obligation of the State to prevent, investigate, sanction and repair human rights violations; the reforms incorporates these obligations as a principle of public education; it prohibits the suspension by the Army of a series of human rights in cases of state of exception; it grants the right to a hearing to all foreigners subject to an expulsion proceeding; it includes the right of all persons to seek asylum for political reasons and refuge for humanitarian reasons; it establishes human rights as an element of reinsertion into society in the penitentiary system; it authorizes the National Human Rights Commission to investigate gross human rights violations, broadens its competence to hear human rights violations in the labor field, and it makes it mandatory to accept and comply with the recommendations of the national and state ombudspersons; and it establishes, as a ruling principle of foreign policy, the respect, promotion and protection of human rights.

77. The State also informed that the Executive has created an entity to follow up on and coordinate the implementation of the 2011 constitutional reform regarding human rights, as well as to build a State policy on human rights. In addition, the President presented a series of proposed reforms regarding human rights, including a Regulatory Law for Article 29 of the Constitution, which will ensure that all the rights that cannot be suspended are consistent with Mexico’s international obligations. The President also proposed a Regulatory Law for Article 33 of the Constitution, through which foreign persons who are facing a removal process due to national security reasons shall be guaranteed the conditions to

101 Mexican Constitution, Article 1.
ensure an adequate respect of their rights and of due process. The State also informed that it is carrying out trainings of public servants of the federal government regarding the human rights constitutional reform, in order for it to influence their daily work. To this end, the government also established the Citizens' Council for the Implementation of the Constitutional Reform on Human Rights, which aims to foster citizen participation in this process. Moreover, the government also holds travelling sessions throughout the various states to disseminate the human rights constitutional reform, with the objective of distributing information about the reforms and strengthening their mandatory nature.103

78. The Comission observes that as a consequence of the judgment of November 2009 of the Inter-American Court in the case regarding the forced disappearance of Rosendo Radilla Pacheco, which took place in 1974 in the state of Guerrero, the Mexican Supreme Court ruled that federal and state judges shall verify the compatibility of their decisions with international human rights treaties to which Mexico is a party, including the American Convention and the decisions of the Inter-American Court of Human Rights.104 That is, it established for all tribunals in the country the power to carry out the conventionality control.

79. In addition, the Supreme Court declared unconstitutional item A, section II, of article 57 of the Code of Military Justice, which states that whenever a crime is committed involving military personnel and civilians, the military personnel shall be tried in military courts, as it was contrary to article 13 of the Constitution. The Justices indicated that “in no case and for no reason, may [military courts] exercise their jurisdiction over persons who are not members of the armed forces.” Importantly, on June 13, 2014, a reform of the Code of Military Justice was adopted to exclude the application of military justice in cases of violations of human rights.105 Despite this important improvement, the legislative reform did not restrict military jurisdiction in cases of human rights violations committed by military personnel against other military personnel.

80. In addition, in that case, the Supreme Court found for the first time that victims and their family members have standing to challenge, through an amparo action, that a competent, civilian (not military) authority intervene in the criminal investigation or trial. The decision of the Supreme Court encompasses a recognition of the right of victims and their families to have an effective and adequate recourse to challenge the actions of public authorities when they violate their human rights in such processes, as established by the Inter-American Court of Human Rights in the cases of Ines Fernandez Ortega, Valentina Rosendo Cantu and Rodolfo Montiel Flores and Teodoro Cabrera Garcia, as well as the IACHR in various cases.

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The Commission recognizes and welcomes the reforms as well as the initiatives adopted as a consequence.

C. Implementation of the Conventionality Control

As a starting point, the IACHR acknowledges the positive progress achieved since the Mexican State, and particularly the Supreme Court of Justice, recognized the obligation of all public authorities to carry out the conventionality control. This recognition by the State represents significant progress towards the protection of and respect for human rights in Mexico.

Without prejudice to the foregoing, the implementation of the so-called diffuse conventionality control by Mexican courts has generated debates. Several rulings by the Mexican Supreme Court have confirmed that the judgments of the Inter-American Court of Human Rights are binding on the Mexican State, as long as the Mexican State was a party in the case, and have established parameters and contours of the conventionality control in practice. The Supreme Court has, on the one hand, indicated that the conventionality control shall be carried out by all judicial authorities in the country, within their respective jurisdictions, “adopting the interpretation that is most favorable to the corresponding human right, which is known in the doctrine as the pro personae principle.” On the other hand, the Supreme Court itself appears to indicate that when a judgment of the Inter-American Court entails going against a “constitutional restriction,” such restriction shall prevail. This reasoning appears to be inconsistent with the State’s obligation to comply with its duties and obligations in accordance with the human rights treaties it has ratified.

Secondly, to implement the conventionality control as established by the Inter-American Court of Human Rights, it is indispensable to unify judicial criteria in

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109 The Supreme Court stated: “to establish and specify the obligations of the federal Judiciary regarding international judgments, we consider it adequate to always analyze the relation that must exist between the human rights that the Inter-American Court deemed were violated, and those contained in the Mexican Constitution or in the treaties that the Mexican State has entered into and which therefore has agreed to abide by, with the understanding that, if any of the obligations under the judgment entails the disregard of a constitutional restriction, the restriction shall prevail in accordance with the terms established by the Plenary of the Supreme court of Justice when it ruled on the thesis contradiction 293/2011, during the session held on September 3, 2013, and which resulted in the jurisprudence P./J. 20/2014 (10a.), entitled: “Human rights contained in the constitution and in international treaties. they constitute the parameter for the control of constitutional regularity, but when in the constitution there is an express restriction on the exercise of those rights, the constitutional text shall prevail.” Judgment issued by the Plenary in file No. Varios 1396/2011, published in the Official Gazette of the Federation on August 14, 2015.
terms of human rights. This becomes particularly relevant for federal countries such as Mexico, as the possibility of disparate application of the same concepts, principles, and standards is multiplied at the federal level, on the one hand, and the state level, on the other.

85. In order to achieve this homologation, it is necessary to carry out integral and uniform training of all justice operators, which has happened to some degree in Mexico. The State reports that 62,440 people have been trained in the context of the implementation of the new criminal justice system, including judges, defense attorney, public prosecutors, experts, police, penitentiary personnel, among others. The IACHR recognizes and congratulates the Mexican State for such substantial progress regarding the training of public servants.

86. Notably, the conventionality control, in the terms established by the Inter-American Court, is binding also for military, administrative, and labor tribunals, and for all public authorities, and therefore the justice operators that work at these entities should also receive the same level of training. The IACHR is aware that this represents an enormous challenge for the justice system in Mexico, particularly since, as pointed out publicly by a Mexican judge, there is still in Mexico a certain reticence to apply Inter-American jurisprudence and standards in terms of human rights.

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110 Some analysts consider, for example, that with the diffuse conventionality control, it may be that a judge may have to deviate from certain interpretative principles, such as that of temporality, specificity or hierarchy, and instead give preference to a subsequent norm (temporality), a more general norm (specificity) or even an inferior norm (hierarchy), if the conventionality control so requires. “Diffuse Conventionality Control in Mexico: Dogmatic elements for a practical application” (El control difuso de convencionalidad en México: Elementos dogmáticos para una aplicación práctica), Zamir Andrés Fajardo Morales. Available in Spanish at: http://www.sitios.scjn.gob.mx/reformasconstitucionales/sites/default/files/material_lectura/Fajardo%20Control%20Convencionalidad.pdf


113 Judicial Channel, “In Mexico there is still resistance to adopt the jurisprudence issued by the IACourtHR, assures district judge” (“En México persiste la Resistencia para adoptar la jurisprudencia emitida por la CoIDH, asegura juez de distrito”), September 1, 2015. Available in Spanish at: https://canaljudicial.wordpress.com/2015/09/01/en-mexico-persiste-la-resistencia-para-adoptar-la-jurisprudencia-emitida-por-la-coidh-asegura-juez-de-distrito-2/
CHAPTER 4
VIOLENCE AND CITIZEN SECURITY
VIOLENCE AND CITIZEN SECURITY

A. Situation of Violence and Violations of Human Rights

87. As part of the “war on drugs” that began in 2006, Mexican authorities opted to increase the involvement for the Armed Forces—particularly SEDENA and SEMAR—in public security duties, including a policy of confronting organized crime and the deployment of joint operations between the armed forces and state and municipal security agencies. This situation has sparked greater violence, as well as gross violations of human rights and impunity.\footnote{Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C. [Mexican Commission for the Defense and Promotion of Human Rights], Informe sobre el incumplimiento de México a obligaciones derivadas de la Convención internacional para la protección de todas las personas contra la desaparición forzada [Report on Mexico’s non-compliance with obligations stemming from the International Convention for the Protection of All Persons from Enforced Disappearance], October 7, 2014; CADHAC, CEDHREM, Desapariciones Forzadas e Involuntarias en México. Informe Alternativo para la Evaluación de México ante el Comité de Desaparición Forzada de Naciones Unidas [Forced and Involuntary Disappearances in Mexico. Alternative report for Mexico’s evaluation by the UN Committee on Enforced Disappearance], June 2014.} Despite a change in government in December 2012 and a shift in official discourse that has left out the concept of “war” in public pronouncements, there have been no substantial changes with regard to security policies in practice and the violence that these trigger.

88. This fight against drug trafficking and the resulting militarization of areas of the country has at several points resulted in an increase in violence, violations of human rights, as well as greater impunity. In other words, providing the armed forces a role that should correspond to civilian police forces and the deployment of joint operations between the armed forces and state and municipal security agencies in different parts of the country, has led to more human rights violations.

89. According to civil society organizations, in 2007 there were 45,850 members of the armed forces involved in public security duties, and by 2011 there were 92,261. Information in the media indicates that the current administration has during its term in office so far spent 100 times more on weapons than previous administrations.\footnote{Press article, "What’s behind Mexico’s military buying binge?" The Washington Post, June 15, 2015.} To date there is no known plan by the Mexican Government to gradually withdraw armed forces from citizen security tasks. To the contrary, in the administration’s third report from September 2015, the President reiterated that the work of the armed forces in public security duties would continue. The IACHR considers it indispensable that the federal government present a concrete, written plan on their gradual withdrawal from these duties, which by their nature should correspond to the police.
In its observations to the draft of this report, the State indicated that the territorial division, the deployment and the actions taken by the armed forces are in compliance with general missions that have been assigned to them for purposes of exterior defense and interior security of the country, as well as to support the civilian population in cases of disasters and public necessities. It informed that the armed forces support the civilian authorities of the three levels of government in public safety tasks to protect persons and their goods, at the express request of those authorities, who provide the reasons and basis for making such request, without being substituted in their roles. In this sense, the deployment of the Mexican armed forces “is aimed at guaranteeing the security of the population and preserving the Rule of Law, and not, as stated, at responding to a policy of committing generalized attacks against the civilian population”\footnote{Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.}. The State also highlighted the rulings in cases 36/2000, 37/200 and 38/2000 of the Supreme Court, which held that the participation of the armed forces in public safety tasks, in support of civilian authorities, is legal. Such participation must be preceded by a reasoned request, when the civilian authorities making the request establish that they have been surpassed in their capacity to respond by organized crime, and must take place strictly complying with the laws, respecting the individual rights of the population.\footnote{Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.}

Given the militarization situation that Mexico is experiencing, the Commission expresses its concern with the involvement of military forces in professional duties that, by their nature, would correspond exclusively to police forces. The Commission and the Court have repeatedly highlighted that inasmuch as the armed forces lack appropriate training in citizen security enforcement, it is the job of a civilian police force that is efficient and respectful of human rights, to fight insecurity, crime, and violence domestically.\footnote{IACHR, *Report on Citizen Security and Human Rights*. OEA/Ser.L/V/II, Doc. 57, December 31, 2009, para. 100; IACHR, Justice and Social Inclusion: The Challenges of the Democracy in Guatemala, OEA/Ser.L/V/II. 118, Doc. 5, rev. 1, 29 December 2003, para. 113; IACHR, *Report on Citizen Security and Human Rights*; I/A Court H.R., *Case of Montero Aranguren et al. (Retén de Catia) v. Venezuela*. Judgment of July 5, 2006, Series C No. 150, para. 78: “(…) the States must restrict to the maximum extent the use of armed forces to control domestic disturbances, since they are trained to fight against enemies and not to protect and control civilians, a task that is typical of police forces”.} As established by the Commission in its Report on Citizen Security, a public policy regarding citizen security, constituted as an efficient tool for Member States to comply adequately with their obligations to comply with and guarantee the human rights of all persons in their territory, must include institutions and a professional operative structure that are adequate for those purposes.\footnote{IACHR, *Report on Citizen Security and Human Rights*, OEA/Ser.L/V/II, Doc. 57, December 31, 2009, para. 109.} The distinction between the functions within the competence of the armed forces, which are limited to defending national sovereignty, and the functions within the competence of the police forces, which are the entities exclusively responsible for citizen security, is a fundamental starting point that cannot be ignored in the design and implementation of such public policy. The Inter-American Court has pointed out in this regard that “States .
must restrict to the maximum extent the use of armed forces to control domestic disturbances, since they are trained to fight against enemies and not to protect and control civilians, a task that is typical of police forces.”

92. In the American continent experience has shown that the involvement of the armed forces in domestic security tasks goes hand in hand with violence and serious violations of human rights. Since its in situ visit to Mexico in 1998, the IACHR has expressed its concern about using members of the armed forces to discharge police duties. Prior to the in situ visit of 2015, the IACHR received information on an agreement entered into between SEDENA and some municipal governments and the state governments of Nuevo León, Tamaulipas, and San Luis Potosí regarding 3,200 military police who would operate in those states. During the visit, federal and state representatives assured the IACHR that this agreement would only refer to the building of facilities and not additional involvement of military personnel in citizen security activities. The Commission will closely follow the implementation of said agreement and its scope.

93. This framework of confronting organized crime and the resulting militarization has led to an increase in the excessive use of force. Experts from the Center for Economic Research and Teaching (Centro de Investigación y Docencia Económicas—CIDE) and the Institute for Juridical Research of the National Autonomous University of Mexico (UNAM) conducted an analysis of the fatality index, which is the number of civilian deaths for every civilian wounded in situations described by the authorities as “confrontations.” These indices are alarmingly high in Mexico. The researcher who designed the fatality index highlights that “any coefficient above 1 points to an abuse of force and the existence of summary executions.” This is because in authentic confrontations, there tend to be more people wounded than killed, because when police use force legitimately, they seek to maim and not to kill. According to the report, in Mexico the fatality index of the army was 7.7 civilian deaths for every civilian wounded in 2013 and 11.6 in the first quarter of 2014. Using data in the press, the fatality

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120 I/A Court H.R., Case of Montero Aranguren et al. (Retén de Catia) v. Venezuela. Judgment of July 5, 2006, Series C No. 150, para. 78.
121 IACHR, Report on the Situation of Human Rights in Venezuela, OEA/Ser.L/V/II.118, Doc. 4 rev. 1, October 24, 2003, para. 272. The IACHR has also examined cases regarding the intervention of armed forces in domestic security tasks. See, e.g., Case No. 11.566, Cosme Rosa Genoveva, Evandro de Oliveira and others (Favela Nova Brasília), with respect to Brasil. The Commission has also received information regarding this phenomenon at different times in Peru, Honduras, Venezuela, Colombia, among others.
122 The Military Police is a special group within the army whose duties are regulated under Article 109 of the Mexican Army and Air Force Act. These duties include guarding military prisons, defendants, and convicts; cooperating in the prevention of espionage, sabotage and “other subversive activities;” “protecting persons and public property and preventing pillaging and looting in cases of emergency,” among others.
123 Meetings between the plenary of the IACHR and federal authorities at facilities of the Secretariat of Foreign Relations, September 28, 2015; meeting with the then governor of Nuevo León, September 29, 2015 at the Palace of Government in Monterrey, Nuevo León.
index reveals in general terms the trend for official data. Both official and press data indicate that the rate of fatalities in confrontations involving SEDENA reached their peak in 2011 and 2012, but the subsequent drop reveals rates that are still high in a context in which official information is likely not being recorded or made public. The National Defense Ministry reported that, “since April 6, 2014, such statistics have no longer been kept as this is no longer necessary for this federal executive agency, given that […] the Ministry’s personnel, after fending off an attack, limit themselves to preserving the scene of the incident, and once the competent authorities arrive, they dissociate themselves from the corresponding investigation processes.”

94. In addition to the armed forces, the IACHR notes that this problem also affects police forces: federal, state, and municipal. In the case of the Federal Police for example, according to official data, the fatality index was low until 2010 and rose until 2013 to a level of 20.2 civilian deaths per each wounded individual. In 2014, according to official statistics, there was a decrease to 4.6 civilians killed for each civilian wounded, while the study by specialists from the Centro de Investigación y Docencia Económicas (CIDE) and by the Institute of Juridical Research of the National Autonomous University of Mexico (UNAM) indicated that according to press statistics the fatality index for 2014 was 25.5.

95. As pointed out in Chapter II, the levels of violence and insecurity that Mexico is experiencing are also due to a lack of effective state response to organized crime that acts in its own interest, and is exacerbated when it colludes with officials and authorities of the State, very particularly at a state and municipal level. In these cases citizens are completely powerless in the face of violence, as well as in accessing justice. The case of Ayotzinapa, which is analyzed later in this Report, is a clear example of this.

96. As pointed out on previous occasions, the Commission reiterates that the obligations undertaken by the State demand public policies on security and the fight against crime that prioritize the functioning of an efficient institutional structure. This structure must guarantee the population effective exercise of their human rights with regard to prevention and control of violence and crime, including organized crime.

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97. Regarding the strengthening of civilian security corps, in its observations to the draft of this report, the State stated that in August 2014 the personnel of the Federal Police was increased by five thousand members, with the creation of the seventh division of that institution, the “Gendarmerie Division.” According to the State, this increase in non-military security personnel of the federal government “contributes to the efforts of the Mexican State to have more and better human, technical, and logistical resources to face organized crime in the regions of the country with the greatest needs, and where it is necessary to continue working on the consolidation of the local institutions.”

98. In the following section, the Commission analyzes grave violations of human rights in Mexico, such as disappearances and extrajudicial executions stemming from the violence and insecurity in the country and their impact on some groups who are particularly vulnerable.

1. Disappearances and Forced Disappearances

99. The Inter-American Convention on Forced Disappearance of Persons defines forced disappearance as “the act of depriving a person or persons of his or their freedom, in whatever way, perpetrated by agents of the state or by persons or groups of persons acting with the authorization, support, or acquiescence of the state, followed by an absence of information or a refusal to acknowledge that deprivation of freedom or to give information on the whereabouts of that person, thereby impeding his or her recourse to the applicable legal remedies and procedural guarantees.”

100. During its visit the IACHR was able to confirm that the disappearance of persons in large swathes of Mexican territory has reached critical levels. The figures and testimonies the IACHR has gathered also reveal kidnappings at the hands of organized criminal groups. The phenomenon of forced disappearances has occurred in Mexico at different times with varying intensity, such as in the 1960s in the context of the so-called “Dirty War” up until the 1980s, and currently has spiked dramatically in the country. What is especially grave is the widespread and consistent information the IAHCR has received through different channels on the existence of a practice of forced disappearances at hands of agents of the State or with their involvement, acquiescence, or tolerance.

101. Some civil society organizations have affirmed that, in contrast to what Mexico underwent in the years of the so-called “Dirty War,” “when disappearances were committed for political reasons, “today’s disappearances include any person, “without any ties to social or political groups; those who are suspect for any circumstance or fingered by public officials of different governments for belonging

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131 Inter-American Convention on Forced Disappearance of Personas, Article II.
to organized criminal gangs have been victims of forced disappearance.”

During the Commission’s visit it heard testimony from relatives of disappeared persons in various states and the Federal District. The victims of disappearance include men, women, children, indigenous people, peasant farmers, students, migrants, defenders, even state officials. In some dramatic cases, individuals have even lost more than one family member. The IACHR learned of the case of a woman from Piedras Negras, Coahuila, who reported 11 disappeared family members.

The common thread in the testimony heard was the incessant search for loved ones “until they are found” and an alarming impunity.

102. Tamaulipas is, by far, the state in which there are more disappeared persons, and is, at the same time, one of the states with the largest presence of armed forces involved in citizen security tasks. Even in those cases in which authorities have recognized their involvement, the perpetrators remain unpunished as no criminal proceedings exist in these cases.

i. Magnitude of the Phenomenon of Disappearances

103. According to the National Registry of Disappeared or Missing Persons, the number of “unlocatable” persons in México as of September 30, 2015, was

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132 CMODPH, Report on Mexico’s non-compliance with obligations stemming from the International Convention for the Protection of All Persons from Enforced Disappearance, October 7, 2014; Meeting with civil society organizations, City of Mexico.

133 Information provided during the in situ visit to Saltillo, Coahuila, September 30, 2015.

134 Comité de Derechos Humanos de Nuevo Laredo [Nuevo Laredo Human Rights Committee], “Desaparición forzada, ejecuciones extrajudiciales, tortura y agresiones sexuales cometidas por las fuerzas armadas en Tamaulipas: Expedientes para la Comisión Interamericana de Derechos Humanos (CIDH)” [Forced disappearance, extrajudicial executions, torture, and sexual assault committed by armed forces in Tamaulipas: Files for the Inter-American Commission on Human Rights (IACHR)], Monterrey, Nuevo León, September 2015.

135 Nuevo Laredo Human Rights Committee, “Forced disappearance, extrajudicial executions, torture, and sexual assault committed by armed forces in Tamaulipas: Files for the Inter-American Commission on Human Rights (IACHR),” Monterrey, Nuevo León, September 2015. This organization reported on a case of forced disappearance in Nuevo Laredo by Navy (SEMAR) troops. There is a CNDH recommendation regarding this case (39/2012), and SEMAR even accepted its responsibility and agreed to provide scholarships to the children of the disappeared. However, there have been no criminal proceedings against any of the perpetrators, given that, according to Official Letter No. 61/2015 of Case File AP/PGR/TAMPS/REY-II/1979/2011 of the PGR, “the evidence in the proceedings does not point to who the perpetrators of the crime are (..).” (IACHR File).

136 “The National Registry of Data of Missing or Disappeared Persons, RNPED, integrates the data of persons who are issuing obtained based on the reports presented to the corresponding ministerial authorities. The registry includes only the persons who, as of the date of last consultation, remain missing; that is, it does not include the persons who have been found.” Available at: http://secretariadoejecutivo.gob.mx/rnped/-consulta-publi-ca.php; The figures present the total number of persons related to investigations at the local and federal jurisdictions for the period between January 2014 and July 2015, and which have not been found as of July 31, 2015. Available at: http://secretariadoejecutivo.gob.mx/rnped/estadisticas-fueroocomun.php
26,798. In August 2014, figures from the Attorney General’s Office (PGR) reported 22,322 “unlocatable” persons.

In June 2014, the Secretary of the Interior [Secretario de Gobernación] stated that the number of “unfound” or missing persons totaled 16,000 and not 8,000 as he had stated in May 2014 when he appeared before the Mexican Senate. The Mexican National Human Rights Commission (CNDH) for its part has publically acknowledged that despite the seriousness of the problem “there is no certainty when attempting to provide clear figures and reliable statistics, inasmuch as in the analysis there is no appropriate classification in keeping with international standards on the different cases that emerge.”

The official figures provided, together with the information received from different regions in the country show that disappearances are generalized in Mexico. In this regard, the high numbers reported also led the UN Committee on Enforced Disappearances to refer to a “context of generalized disappearances in a large part of the country.”

The registered statistics correspond primarily to disappearances between 2007 and 2015. There are also statistics regarding disappearances before 2007 and others for which no date is specified. As of September 30, 2015, there were 880 disappearances under federal jurisdiction and 25,918 in local jurisdictions. See Executive Secretariat. Available at: [link]

At a press conference, the then-Deputy Attorney General indicated that President Peña Nieto’s government received as of November 30, 2012, a total of 26,121 records of “unlocatable” persons, and after an update with the statistics of the states’ attorney general, it increased to 29,707 persons. She also indicated that of those, as of July 31, 2014, 17,175 persons have been found, 16,274 of whom were found alive, and the search for the other 12,532 continued. Thus, she indicated that from December 1, 2012 to July 31, 2014, the attorney generals’ offices reported that they have found 13,444 persons, 12,821 of them alive, and continued the search for the other 9,790. With that, adding the persons that have not been found during the Calderon administration and those during the present administration, the official statistic reached 22,322 persons. El Economista newspaper. Available in Spanish at: [link]

El Universal, Segob specifies figures on disappeared; they total 16,000 [Segob precisa cifras de desaparecidos; ascienden a 16 mil], June 16, 2014. Available at: [link]

CNN México, SEGOB “corrige la cifra de “personas no localizadas”: son 16,000 [La SEGOB “corrige la cifra de “personas no localizadas”: son 16,000], Available at: [link]

El Economista, There weren’t 8,000 disappeared, rather 16,000, corrects SEGOB [No eran 8,000, sino 16,000 desaparecidos, corrige la SEGOB]. Available at: [link]

CDNH, Consideraciones de la Comisión Nacional de los Derechos Humanos ante el Comité contra la Desaparición Forzada de la Organización de las Naciones Unidas [Considerations of the National Human Rights Committee before the UN Committee on Enforced Disappearance].
of Mexican territory, many of which could be described as forced disappearances.”

In August 2014, the UN High Commissioner for Human Rights affirmed that Mexico was in “a critical situation as regards disappearances.”

106. The mother of a disappeared man in the State of Nuevo León told the IACHR that “there are thousands disappeared like him. The investigations have yielded no results and we are the ones who have to carry out the search. The prosecutor of Nuevo León says that there are 2,300 disappeared [in Nuevo León]. Imagine what the real numbers are. We are suffering because of the indifference.” The IAHCR found an absence of appropriate mechanisms nationally to correctly establish when it is a case of disappearance; official figures are not reliable and constitute the first barrier to finding disappeared persons, revealing the truth, and justice.

107. Despite the lack of precise figures on the numbers of disappeared and forcibly disappeared persons, there is evidence that the problem is of an enormous scale. Information available does not specify the cases in which there may be circumstantial evidence indicating forced disappearance, missing persons, or other kinds of absence. It is indispensable that the Mexican State adopt measures to substantially improve information gathering and systematizing.

108. Preliminary observations of the UN Working Group on Enforced or Involuntary Disappearances presented in March 2011 indicated that civil society human rights organizations reported that based on their estimates more than 3,000 people have been forcibly disappeared in the country since 2006. The CNDH reported a sustained increase in the number of complaints on forced disappearances—increasing from 4 complaints in 2006 to 77 in 2010. The UN Working Group stated that a potential forced disappearance can only be discounted through an independent, impartial, complete, and effective investigation.

109. The Commission acknowledges as progress the enactment in 2012 of the Law on the National Missing and Disappeared Persons Data Registry, the aim of which is to establish and regulate the operation, functioning, and administration of a National Data Registry from which figures on disappeared persons in Mexico can be obtained. This registry consists of the figures provided by attorneys general and prosecutor’s offices of the states and the federal district. Nevertheless, measures must be adopted to produce reliable, public, and transparent information. In this regard, the Registry needs to be improved and made more functional as regards the itemization and uniformity of the information it contains.

110. It is also noted that this Law does not include the category that allows a person to be registered as a victim of forced disappearance. Furthermore, three years after its creation, the State has yet to publish the corresponding regulations in keeping

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142 Report presented by the Mexican State to the Committee on Enforced Disappearance, CED/C/ME/1, April 17, 2014. See also the Law on National Missing and Disappeared Persons Data Registry, DOF [Official Gazette] 04-17-2012. Available at: http://www.diputados.gob.mx/leyesBiblio/pdf/LRNDPDE.pdf

143 Mexican State, Information provided as part of the in situ visit to Mexico, September 25, 2015.
with the second transitional article which provides that the competent authorities shall issue laws, regulations, and other provisions to implement the Law in a period of no greater than six months after its publication. In principle it would be expected that a new national law on forced disappearance would be the only tool at a national level and that there would be a sole registry of disappearances, which would include disappearances from the past, such as victims of the “Dirty War”.

111. The IACHR also considers that it is important to have a single national registry for persons detained as a measure to prevent the disappearance of persons.

ii. Definition of the Crime of Forced Disappearance

112. Several civil society organizations, the CNDH as well as the IACHR itself and the Inter-American Court have stated that the current definition of the crime of forced disappearance provided for in Article 215-A of the Federal Criminal Code since June 1, 2001 is not consistent with international human rights standards. The definition set forth under said Article reads as follows:

Public servants shall be guilty of the crime forced disappearance where, regardless of whether they were involved in the legal or illegal detention of one or several persons, they intentionally encourage or maintain concealment of that detention, whatever its nature.

113. In the judgment of Rosendo Radilla Pacheco v. Mexico, the Inter-American Court indicated that said definition restricts responsibility for the crime solely to “public servants,” while the active subject of the crime in keeping with the Inter-American Convention on Forced Disappearance of Persons must ensure punishment of all “authors, accomplices, and accessories of the crime of forced disappearance of persons,” whether agents of the State or “people or groups of people that act with the authorization, support, or acquiescence of the State.” Thus, for the Court, the legal classification of forced disappearance of persons of the Federal Criminal Code of Mexico presents an obstacle to the guarantee of punishment of “all the authors, accomplices, and accessories” arising from “any of the powers or bodies of the State.” In order to satisfy the minimum elements of the correct legal classification of the crime, the nature of the “State agent” shall be established in the most ample way possible. The Court also indicated:

that Article 215-A of the mentioned Federal Criminal Code does not refer to “persons or groups of persons acting with the authorization, support, or

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144 According to the CNDH, in October 2013, the Chamber of Deputies of the Federal Congress issued a non-binding resolution urging the head of the federal executive branch to publish the corresponding regulations in order to ensure and execute the creation of the aforementioned Registry, in keeping with the terms set forth under the Law.


acquiescence of the state”. In this regard, it mentioned that the punishment for the criminal actions of individuals can be concluded from Article 212, second paragraph, of the mentioned Federal Criminal Code, according to which “the same punishments established for the specific crime will be imposed on any person who participates in the perpetration of any of the crimes established in this Title or the following one.” Despite the aforementioned, it is not clear to this Tribunal if the intervention of “any person” as a participant in the crime, in the sense of the mentioned Code, is equivalent to the idea that the perpetrator of the same, that is, the active subject, is an individual that acts “with the authorization, support, or acquiescence of the state.” This idea acknowledges both the actions of individuals as perpetrators of the crime, under certain circumstances, and the different forms of participation of State agents in it.

114. Furthermore, the current definition of forced disappearance the Federal Penal Code also fails to refer to the refusal to acknowledge the deprivation of liberty or to provide information about the fate or whereabouts of persons and by not leaving prints or evidence, which is a component recognized in the Inter-American Convention on Forced Disappearance of Persons.

115. As far as the 31 states and the Federal District are concerned, the State has reported that 19 have provided for forced disappearance as an independent crime in their criminal codes. Chiapas, the Federal District, Guerrero, and Querétaro have approved specific laws to prevent and punish this crime. The IACHR has been informed however that not all the definitions set forth under those criminal codes are consistent with international human rights standards. Moreover, where there is circumstantial evidence that it could be a forced disappearance, the events are described as a different crime—like kidnapping—which means the investigations are not conducted appropriately. Furthermore, some justice officials in the state of Guerrero have stated that they do not have jurisdiction to apply special laws, affirming they only have jurisdiction to prosecute crimes provided for in the state’s criminal code.

116. Currently there are several draft bills on forced disappearance at a federal level. Civil society organizations and the academic sector have emphasized the need to define at a federal and local level the crime of forced disappearance of persons. They have also stated that it is imperative to establish the judicial decree of absence for disappearance of persons in the bill. In its observations to the draft of this report, the State stated that the draft bill “General Law on Forced

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148 Report by Mexico on the implementation of the International Convention for the Protection of All Persons from Enforced Disappearance, CED/C/MEX/1, March 11, 2014, para. 87, Available at: http://www.ohchr.org/Documents/HRBodies/CED/StatesReports/article29/29.1_CED_Mexico_sp.pdf; In the information the Mexican State presented to the IACHR during its in situ visit on September 25, 2015, the Mexican government identified only 13 states whose local criminal codes define the crime of forced disappearance. Section 2.2, p. 28.

149 Mexican State, Information from the Mexican State presented to the IACHR during its in situ visit, September 25, 2015, supplemented by information from CADHAC and CEDEHM, Forced and Involuntary Disappearances in Mexico. Alternative Report for Mexico’s Evaluation by the UN Committee on Enforced Disappearance, June 2014.
Disappearance” was sent by President Peña Nieto to Congress on December 10, 2015.150 The State informed that the preparation of this draft bill was completed through a process of consultation that consisted of three phases, which included the participation of citizens, civil society organizations, the federal states, and was accompanied by the International Committee of the Red Cross. According to the State (ICRC), this draft bill will allow the establishment of a new public policy focused on the search and finding of disappeared persons, and proposes the creation of four basic instruments151:

i. The National Search System, which will seek to ensure the immediate activation of public safety agencies, prosecutors’ offices, and specialized personnel after a report of a disappearance. Its objective is to ensure a broad, agile and prompt institutional response in the hours following a disappearance.

ii. The National Registry of Missing or Disappeared Persons, a registry with updated information provided by hospitals, detention centers, and forensic medical services, both at the state and federal levels, which will allow relatives to follow up on their reports of disappearances.

iii. The National Forensic Registry, which will make it easier to find and identify disappeared persons.

iv. The National Citizens’ Council, made up of human rights defenders, specialists and relatives of victims, whose objective will be to advise and issue opinions for the National Search System.

In its observations to the draft of this report, the Mexican State also recognized that the pending challenge is to push for the adoption of the General Law, as well as to ensure its full implementation.152 The IACHR urges the State to adopt a general law on the matter of disappearances in consultation with civil society, victims, and their family members, and in keeping with international human rights standards.

iii. Investigation and Punishment

Despite the enormous number of cases of forced disappearance, the figures provided by the State or international organizations point to the fact that there have only been six federal court judgements issued in Mexico for the crime of

forced disappearance. Furthermore, according to the information reviewed the cases of forced disappearances in which there have been convictions are from 1977, 2002, 2003, with three from 2005. The IACHR has several petitions and cases being processed that present allegations of forced disappearance.

119. For its part, the CNDH reports it issued 11 recommendations for forced disappearance between 2006 and 2015, involving 37 victims, directed at federal, state, and municipal authorities. Of these recommendations, 5 were directed at SEDENA regarding 13 victims, and 2 were for SEMAR regarding 7 victims.

120. The State has stated before the United Nations that the PGR’s Deputy Attorney General’s Office for Special Investigations on Organized Crime Investigation [Subprocuraduría Especializada en Investigación de Delincuencia Organizada—SEIDO] is the authority charged with opening investigations at the federal level for suspected cases of forced disappearance.

121. In practice, the Commission has received repeated complaints from victims about the actions of state attorneys general’s offices during their quest for justice, and to a lesser extent also about the PGR. Many victims are not assisted or are not

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153 The Mexican State informed the UN Committee on Enforced Disappearance about the following six federal judgments handed down in cases of forced disappearance: (1) Final judgment in criminal proceedings 179/2006 of September 30, 2009, handed down by the Ninth District Court in the State of Sinaloa; (2) Final judgment in criminal proceedings 20/2005-I of June 30, 2010, handed down by the First District Court of Federal Criminal Proceedings in the Federal District; (3) conviction in criminal case 27/2005 of May 10, 2006, handed down by the Sixth District Court of Federal Criminal Proceedings in the State of Jalisco; (4) conviction in criminal case 142/2003 of May 11, 2005, handed down by the Sixth District Court in the State of Guanajuato; (5) Conviction in criminal case 72/2005 of December 14, 2005, handed down by the First District Court of the State of Michoacán; and (6) conviction in the criminal case 159/2005 of November 14, 2006, handed down by the Fifth District Court in the State of Chihuahua. The IACHR observes that in the report it was provided the CDNH stated that “on May 6, 2015, [the CNDH] requested information from 27 states that have the crime of forced disappearance on the books. To date responses have been received from 22 states, the analysis of which revealed that in 9 of them 95 preliminary inquiries have been initiated for the crime of forced disappearance of persons, with only 4 leading to indictments (1 with an arrest, 3 without arrests), and no convictions issued in any criminal case.” Report by the National Human Rights Committee (CDNH) during the IACHR’s in situ visit, September 27, 2015, p. 14. See also, CMODPH, Report on Mexico’s non-compliance with obligations stemming from the International Convention for the Protection of All Persons from Enforced Disappearance. October 7, 2014, p. 10. Available at: http://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/MEX/INT_CED_NGO_MEX_19375_S.pdf


155 Report by the National Human Rights Committee (CDNH) during the IACHR’s in situ visit, September 27, 2015, p.20 (IACHR archive). The IACHR notes that the CNDH reported to the UN Committee on Enforced Disappearance that it had issued 13 recommendations for forced disappearance to the CNDH [sic], Considerations of the National Human Rights Committee before the UN Committee on Enforced Disappearance. Available at: http://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/MEX/INT_CE_D_IFN_MEX_19449_S.pdf

156 This authority is charged with applying “The Protocol of Proceedings related to Investigations” and forwarding an itemized list to the Special Unit for the Search of Disappeared Persons, of the Deputy Attorney General’s Office for Human Rights, Crime Prevention, and Community Services of the PGR. According to the State, in this manner two separate investigations are undertaken: one for the disappearance of the person, and the other for possible commission of the crime of forced disappearance. Report presented by Mexico to the Committee on Enforced Disappearance, CED/C/MEX/1, April 17, 2014.
assisted adequately when they try to file a complaint. In extreme cases, family members face so many obstacles and have so much distrust that they prefer not to report the crime or not to follow up with the authorities.

122. In those cases in which a complaint is filed, the authorities’ response presents serious flaws. The IACHR received hundreds of testimonies of persons who indicate that no search mechanism is activated with the necessary immediacy. When an investigation is opened, the victim’s relatives face serious obstacles, given that some officials of state prosecutors’ offices request money from them to carry out inquiries and deny them access to case files. Some victims even stated that there is a set fee required to conduct investigations. There are also usually delays in the investigation proceedings when inquiries in the initial hours are decisive, as is the case in disappearances. This is especially dire inasmuch as the first 48 to 72 hours after a person’s disappearance are key, after which the likelihood of finding the person alive diminishes. “Our country has no search mechanisms”, a mother of a 14-old girl who disappeared in 2010 told the IACHR. “When I went to file a report they told us she had run away with her boyfriend. This is what they tell us, that they run away because they want to. Our pain is so great! When our children disappear, we don’t know what to do, where to turn, where we have to go so they will help us to find our children.”

123. There are also irregularities in the search for and interviews with potential eyewitnesses, the collection, analysis, and handling of potential evidence, investigation of telephone call reports, facial composite sketches of possible perpetrators, connections with activities or other disappearances, among others. Disappeared persons’ family members indicated that the search merely consists of phone calls and home visits that the personnel of the prosecutor’s office make sporadically to them not to provide information about the case, rather to ask them if their family member has returned or if they have any additional information. The mother of two disappeared persons in Guerrero—a 21-year-old son and a 19-year-old daughter—recounted to the IACHR that several neighbors told her they had been kidnapped by the police and taken away in a truck. “We filed reports but we were never provided a response. They were never able to tell us anything,” she said. Furthermore, on repeated occasions the events are described as other crimes when there is circumstantial evidence of forced disappearance.

124. The family members also reported a lack of efficient coordination and cooperation between state and federal justice authorities. This hinders the investigations, which are an imperative obligation of the State. Furthermore, the IACHR was told time and again that the information that exists in the case files, if such files exist, is what relatives have provided. Additionally, during the visit and in meetings with civil organizations held in the Federal District victims constantly described the irregular handling of case files. One testimony heard by the IACHR stated:

We went to review the case file and it turns out they didn’t have it, that they had sent it to another area; we spoke [to them] and it wasn’t there, that the Special Prosecutor’s Office on Violence against Women and Trafficking in

157 Information presented to the IACHR on September 28, 2015 by organizations from Jalisco.
Persons \([\text{Fiscalía Especial para los Delitos de Violencia contra las Mujeres y Trata—FEVIMTRA}]\) had it. At any rate, the case file was missing for approximately a year [...] When we managed to get it back, we noticed that pages were missing, such as statements, lists of calls, and some investigations, which we were not able to recover.

The testimonies heard reveal deep distrust of state and local authorities, apathy on the part of the State, negligence, and a lack of will to address their situation. Specifically, the IACHR received information that some federal and state police agents, as well as many municipal police, are allegedly colluding with organized criminal groups.

Testimony was also provided by many relatives about threats and harassment that they were subjected to so they would stop seeking truth and justice. One mother in Mexico City stated, “They tell me, don’t look because I’m going to cut your tongue out. Don’t look because your three other children are going to end up lying at the door of your house and that will be on your conscience. They leave us this void, this absence, and our hearts frozen because we can’t even cry.” Another mother pointed out: “When we did demand justice, we realized that we were an annoyance. We tell them what leads to follow, because we have become investigators.” A woman from the State of Nuevo León told IACHR that for four months she and her husband have been looking for their disappeared son. “They tell us we are advocates, but we are just mothers looking for our children, families seeking justice, seeking truth,” she pointed out.

The discovery of unmarked mass graves and mass graves in cemeteries with dozens of bodies all over Mexico has demonstrated that in many cases family members are the ones that have had to undertake the search for their loved ones, as well as underscoring the multiple shortcomings and lacunae in handling and identifying the bodies and in assisting and protecting victims’ relatives. In keeping with the information gathered throughout the visit, the Commission noted that in many cases when bodies were found in mass graves there was a failure to apply protocols of accepted criteria for removing the bodies, taking custody of the scene, chain of custody, autopsies, attention to victim’s relatives, identification of remains found, among others. When the remains of an individual are located, family members report difficulties in recovering them in an appropriate, dignified manner, and in the certainty of their identity. The Commission heard testimony from some family members in Iguala indicating that in some cases their relatives’ [remains] were provided to them in a closed coffin, which they were prohibited from opening. This situation leads to suspicion and distrust of authorities as to whether the remains being given to them are really their relatives. In Veracruz, family members highlighted that the prosecutor’s office provided them with the alleged remains of a relative and when they asked about the possibility of DNA

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158 Testimony heard on September 29 on the disappearance of a woman in Torreón, Coahuila, Mexico.
159 Information received on September 30, Iguala, Guerrero.
testing the prosecutor’s office would not allow for it and told them if they didn’t take the body right then and there, it would be returned to the mass grave.\textsuperscript{160}

128. The IACHR has been able to confirm that a large percentage of disappeared persons come from situations of poverty or extreme poverty, which is worsened and exacerbated when a family member who was the sole breadwinner disappears. The IACHR heard the testimony of one woman from Iguala whose husband was disappeared and she was left with her six children to support. Similar to her testimony, the Commission received numerous testimonies of families who face even greater impoverishment when one of their family members, who was employed and contributed to support the family or was the main breadwinner, disappears. The obstacles to accessing aid are daunting. For example, the IACHR heard testimonies indicating there is the possibility of obtaining MEX$300.00 a month (some US$18.00) in support from the Executive Committee for Victims’ Support [Comisión Ejecutiva de Atención a Víctimas—CEAV]; however, to have access thereto, the family must first publish the court decree of absence in three national newspapers, which costs MEX$30,000.00 (US$1,800.00).

129. In an IACHR public hearing about “Reports of Acts of Forced Disappearance and Impunity in Mexico”\textsuperscript{161} held in March 2015, the Mexican State acknowledged that despite the progress made on human rights, it still had many challenges to overcome.\textsuperscript{162} At this hearing the State recalled the announcement by President Peña Nieto in 2014 of a list of ten security measures, including: (i) the bill sent to Congress on torture and forced disappearance, (ii) the creation of a national search system, (iii) the national genetic information system, (iv) protocols so that investigations are more expeditious.\textsuperscript{163}

130. The State likewise indicated that it is working on creating in all states genetic databases that include deceased and detained individuals, which they hope will be a tool to facilitate searching for and locating individuals. Some civil society organization have acknowledged the measures undertaken by the PGR as part of the agreements of the National Justice Administration Conference [Conferencia Nacional de Procuración de Justicia], with the implementation of the Combined DNA Index System (CODIS), made up of information from genetic profiles and analysis of biological samples, provided by different bodies that administer justice as part of an exchange of information in order to create and update the national database.

\textsuperscript{160} Information from Xalapa Collective for Peace [Colectivo por la Paz Xalapa] received during the in situ visit.
\textsuperscript{161} IACHR, Public Hearing, Reports of Acts of Forced Disappearance and Impunity in Mexico, March 20, 2015, at the request of 21 national and international organizations.
\textsuperscript{162} IACHR, Public Hearing, Reports of Acts of Forced Disappearance and Impunity in Mexico, March 20, 2015, at the request of 21 national and international organizations.
\textsuperscript{163} IACHR, Public Hearing, Reports of Acts of Forced Disappearance and Impunity in Mexico, March 20, 2015, at the request of 21 national and international organizations. See also Office of the President, Broadcasting of the Event: Mensaje a la Nación – por un México en Paz, con Justicia, Unidad y Desarrollo [Message to the Nation—for a Mexico in Peace, with Justice, Unity, and Development], November 27. Available at: http://www.presidencia.gob.mx/multimedia/transmision-del-evento-mensaje-a-la-nacion-por-un-mexico-en-paz-con-justicia-unidad-y-desarrollo/
There has also been recognition of the agreement entered into between the PGR and the International Committee of the Red Cross (ICRC) to use the software license of the Ante Mortem-Post Mortem database, fed with information for the search for live persons and for the identification of deceased persons. The database is expected to come on line at the end of 2015 in all the PGR offices, prosecutors’ offices, and forensic medical services in all the federal entities in the country. In this respect, the PGR informed the public in a press release dated October 26, 2015 that as of that date it had begun operating the Ante Mortem-Post Mortem Database System (AM/PM) as part of the National Plan on Disappeared Persons. It was also noted that the PGR is working on training personnel who are in charge of running the aforementioned Database and is conducting updates to meet the digital platform’s technical requirements so that the software runs in all PGR offices of the states and the Federal District. The PGR also indicated that it had taken measures to coordinate format harmonization and standardization to integrate all national databases with forensic data at the federal level.

In its observations to the draft of this report, the State expressed that it “recognizes that it faces numerous challenges in the attention to disappeared persons, and particularly in the creation of a national registry that, through its database, can allow us to understand the magnitude of the problem we face.” The State referred to the following actions it has already undertaken:

The National Registry of Date of Missing or Disappeared Persons (RNPED) has entered into a process of revision, updating, and purging since 2013, when by agreement of the National Conference of Prosecutors adopted during its XXIX Plenary Assembly, on May 30, 2013, it created working groups in each one of the prosecutors’ and attorneys general’s offices at the federal state and which, based on uniform criteria, carried out this process.

In the context of Mexico’s commitments in its 2013-2015 Action Plan of the Alliance for an Open Government, it re-organized and improved the RNPED: during 2014, it created and published a technical feature to download the information from the database, with the purpose of distinguishing between the persons in which cases there is reason to believe, based on the investigation, that their cases may be forced disappearance, as opposed to missing persons, at the federal level; it published the database of the RNPED at the federal level as open data, which since January 2014 and so far in 2015 it allows to distinguish between the cases of forced disappearance investigated at the federal level (Article 215 of the Federal Penal Code), the cases of persons reported simpy as missing or disappeared, persons found

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165 PGR, Communiqué 667/15 of October 26, 2015. PGR pone en operación Sistema de Datos Ante Mortem/Post Mortem [PGR puts the Ante Mortem/Post Mortem Data System into operation]. Available at: http://www.pgr.gob.mx/sala-de-prensa/Paginas/Boletines.aspx


dead or alive, etc. This information is broken down by the person's gender and by the state of the country where the events took place.

133. Given the scale of the disappearances and the few cases that have been resolved, it is urgent to establish a national immediate search system for disappeared persons in Mexico. For the Commission it is likewise urgent that a national unified database of all disappeared persons be created. In this regard, the Inter-American Court indicated in the “Cotton Field” case that a database must have personal data on the disappeared person, and all the necessary information—principally genetic information and cell samples—of their family members, as well as genetic information and cell samples from the bodies of any unidentified person who were deprived of life.168

134. The forensic piece of the investigations into disappearances in Mexico shows shortcomings that hinder both the search for the victims, as well as the eventual criminal proceedings, and demand the creation of an independent forensic service agency. In practice, forensic authorities are not always charged—as they should be—with removal of bodies, which frequently leads to the loss of key evidence for the investigation and eventual judicial proceedings.169 The UN High Commissioner indicated in his visit to Mexico in October 2015, that the limitations and irregularities pointed to by the GIEI (described later in the report) and the Argentine Forensic Anthropology Team (EAAF) demand the creation of a national forensic services agency in Mexico that is shielded from political and other kinds of interference, and is governed strictly by technical and scientific criteria.170 The problem is such that the UN Special Rapporteur on extrajudicial, summary, or arbitrary executions also recommended this agency be created in Mexico.171 The Rapporteur highlighted that the agency must be independent, provide services to all parties and authorities that are involved in federal and/or state trial proceedings, as well as to human rights and civilian citizen committees, and must have the appropriate infrastructure with sufficient human and financial resources, and nationally standardized protocols.172

135. The IACHR considers it a priority for the State of Mexico to consider the creation of a National Forensic Institute, one that is independent of all interference, political or otherwise, and that is governed strictly by scientific and technical criteria. The

170 UN Committee on Enforced Disappearance, Concluding observations on the report presented by Mexico pursuant to Article 29(1) of the Convention, Statement by the UN High Commissioner for Human Rights, Zied Ra’ad Al Hussein, on the occasion of his visit to Mexico, October 7, 2015.  
IACHR welcomed the information from the Mexican State that the draft bill of the General Law to Combat Torture from the PGR provides for creating the National Institute of Forensic Sciences and Services, which would have legal status, its own assets, technical and management independence, and would not report to the PGR. If it materializes, the creation of this Institute would be a fundamental step toward having an effective forensic service that could be decisive in fighting impunity in Mexico.

136. For the Commission it is also indispensable that a national registry be created of the unidentified remains of individuals who died from violent causes buried in cemeteries all across the country, and that it include the corresponding preliminary investigation undertaken in the case. This entails a restructuring of cemeteries to facilitate the return of the deceased to their families. It is also recommended that there be a search for unmarked mass graves in states where there have been high levels of violence in recent years.

137. It is important to also highlight that on August 19, 2015, the 23rd National Justice Administration Conference [XXXIII Conferencia Nacional de Procuración de Justicia] approved the Investigation Protocols for Forced Disappearance and for Torture that entered into force that same day. Both protocols will operate in the old criminal justice system, as well as the new adversarial criminal system (addressed later in the report). For the Commission it is indispensable and urgent that substantial and comprehensive progress be made in the plans mentioned by the State and that there be involvement of civil society organizations and organizations of the families of victims of disappearance in formulating and implementing such initiatives.

138. The IACHR welcomed the news that the PGR has created the Office of the Special Prosecutor for the Search of Disappeared Persons [Fiscalía Especializada para la Búsqueda de Personas Desaparecidas], under the PGR’s Office of the Deputy Attorney General for Human Rights, Crime Prevention, and Community Services. The new prosecutor’s office will have the authority to conduct, coordinate, and where appropriate, undertake forensic identifications; prosecute crimes related to the disappearance of persons; coordinate with state attorneys general’s offices as regard the disappearance of persons; assist and inform the disappeared persons’ family members, among others. In its observations to the draft of this report, the

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173 Information provided by the Secretariat of the Interior (SEGOB) during the visit of the Inter-American Commission on Human Rights, “Datos Solicitados por la IACHR al Estado mexicano en materia de derechos humanos” [Data the IACHR requested from the Mexican State on human rights], p. 2.

174 Information provided by the Mexican State pursuant to Note OEA-02702 of September 1, 2015; Secretariat of Foreign Relations, Circular No. 10, August 26, 2015.


176 General Directorate for Human Rights and Democracy of the Secretariat of Foreign Relations, Circular No. 12/2015, October 14, 2015. In the announcement about the creation of the Special Prosecutor’s Office, the IACHR values the Mexican government’s acknowledgement that “it faces challenges in the matter of disappearances, and in this regard maintains and underscores its commitment to have the necessary institutional structures to go forward in keeping with the law, justice, and respect for human rights. In particular, [the government] reiterates its unflagging and unremitting willingness to work closely with the families of victims of disappearance and to support them in an ongoing manner.” Circular No. 12/2015, p.2.
State indicated that this special prosecutor’s office currently has 120 servants and it is in a strengthening phase; it works on the integration of a National Registry of Clandestine Graves, a DNA databank, which is expected to be the most complete such bank in Latin America, and the use of drones for the location of victims.177

139. In this regard, the IACHR also received information from civil society organizations and from the State about some initiatives that have yielded positive results regarding the search for disappeared persons. For example, in Nuevo León, with the creation of the Special Groups for Immediate Search (GEBI, their Spanish acronym), backed by the adoption of a specific protocol regarding searching for disappeared persons, the state government reported that around 80% of persons reported as disappeared have been found.178 The GEBIs are designed to operate almost immediately upon the report of a disappeared person, concentrate and systematize information, carry out timely actions in relation to the search, and in many cases they have been able to find the person reported as disappeared alive.179 As it is well known, the actions taken in the first 72 hours after a disappearance takes place are critical for the search and possible finding of the victim. The IACHR considers that this is an example of good practices that could be perfected and implemented in other areas of the country, taking into account the particular characteristics of the different regions and the disappearances’ own circumstances.

140. During the visit, different civil society organizations informed the Commission that it is imperative to provide for a legal decree of absence for disappeared persons. In keeping with the provisions of the General Law on Victims, “it is the obligation of the State to recognize the juridical personality of the victims of disappearance, as well as to implement a special procedure for the decree of absence for disappearance, so that the indirect victims may quickly exercise the absentee’s economic and family rights to safeguard the essential interests of the nuclear family.”

141. In this regard, the UN Committee on Enforced Disappearances expressed its concern that most laws in Mexico regarding the legal status of disappeared persons whose fate is unknown do not reflect in specific terms the phenomenon of forced disappearance. The Committee indicated that this is despite the fact that the National Conference of Governors made the commitment to go forward with the necessary legislative reforms on this matter. As of the date this report was

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178 Information received during the Commission’s visit to the state of Nuevo León, September 29, 2015; Information received during the meetings with civil society organizations in Monterrey, Nuevo Leon, September 29, 2015.

approved, the IACHR has learned that only the states of Coahuila and Querétaro have regulated the legal concept of absence by disappearance.180

142. The IACH emphasizes that as part of the duty to act with due diligence, States have the obligation to ensure access to appropriate and effective legal remedies not only for victims, but also for their families.181 The Inter-American Court of Human Rights has held that families are entitled to have everything necessary done to know the truth about what happened to the victims and their whereabouts through an effective investigation, prosecution of the perpetrators, imposition of pertinent punishment, and fair and adequate reparation.182

a. The particular Situation in the State of Guerrero

i. Ayotzinapa

143. In this context of unresolved disappearances, the forced disappearance of 43 young students from the Rural Teacher’s College “Raúl Isidro Burgos” in the state of Guerrero on September 26 and 27, 2014, during which other persons were wounded and murdered, is a grave tragedy in Mexico, as well as a national and international wake up call about disappearances in Mexico, particularly in the state of Guerrero. It also brings attention to the serious shortcomings in the investigation of these events and the structural and almost total impunity that permeate these kinds of serious crimes.

144. In the immediate aftermath of the events, civil society organizations denounced a lack of action on the part of the state government and the delayed involvement of the PGR. For example, the students themselves and their family members were the ones who drew up a complete list of the 43 disappeared students by reviewing official registration lists at the school, verifying who had participated, as well as by interviewing mothers and fathers who were searching for their children.183 It took the PGR eight days to collaborate in the case investigation.184

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180 UN Committee on Enforced Disappearance. Concluding observations on the report presented by Mexico pursuant to Article 29(1) of the Convention.


183 Tlachinollan, Red Guerrerense de Organismos Civiles de Derechos Humanos [Guerrero Network of Civil Society Human Rights Organizations], Centro Prodh, Additional information sent as part of the UN Committee on Enforced Disappearance’s review of the Mexican State, at its 8th session, January 8, 2015.

184 In this regard see also, the Human Rights Watch press release: Mexico: Delays, Cover-Up Mar Atrocities Response, November 7, 2014. Available at: https://www.hrw.org/news/2014/11/07/mexico-delays-cover-mar-atrocities-response
On October 3, 2014, the Inter-American Commission granted precautionary measures in relation to these events. On November 18, 2014, the IACHR signed a technical assistance agreement with the State of Mexico and representatives of the disappeared students from Ayotzinapa. This was done at the behest of the State, as well as that of the beneficiaries of the precautionary measures and their representatives, in keeping with the objectives of these measures. Essentially the parties agreed on “the involvement of an Interdisciplinary Group of Independent Human Rights Experts to conduct a technical verification of the actions initiated by the Mexican State” after the disappearance of the 43 students who are the beneficiaries of the precautionary measures.

In this regard, the IACHR appointed an Interdisciplinary Group of Independent Experts (GIEI) for a period of six months with the following responsibilities: analysis of the plans to find the disappeared persons alive, and where appropriate, to recommend best practices for a more efficient investigation; a technical analysis of lines of inquiry to determine criminal responsibilities; a technical analysis of the Comprehensive Plan for Assisting Victims of the events of September 26 and 27. The GIEI is composed of Carlos Beristain, Angela Buitrago, Francisco Cox, Claudia Paz y Paz, and Alejandro Valencia.

During its term, the GIEI has issued four reports. From the outset, the Group has worked in coordination with authorities and relatives, as well as the students who survived the attacks. In all its reports, the GIEI has expressed its gratitude to the Mexican State for the material and logistical support provided. A request from the Group that has not been allowed by Mexican authorities as of the date of the preparation of this Report is the possibility of interviewing members of the Mexican army present during the events.

The GIEI’s report on the investigation and initial conclusions, presented on September 6, 2015, points to a series of irregularities, inconsistencies and/or omissions in the investigation of the events on the part of State authorities. In particular, the GIEI questions “the historical version” of the facts provided months before by the then Attorney General of México, Jesús Murillo Karam, that the students had been incinerated. In fact, based on an expert analysis by a highly regarded expert on the subject, the GIEI concluded that the hypothesis of a large fire is impossible, since it would have required “between 20,000 and 40,000 kg of wood or between 9,000 and 18,000 kg of tires in order to consume one body.”

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146. All information regarding the signing of this agreement is available at the following specific section of the IACHR official webpage: http://www.oas.org/es/IACHR/mandato/acuerdos.asp
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148. To access the reports: http://prensagieiayotzi.wix.com/giei-ayotzinapa#!informe-/c1exv
149. GIEI, Ayotzinapa Report, Investigation and first conclusions of the disappearance and murders of the teaching students of Ayotzinapa, p. 147.
and 60 hours of fire with flames of 7 meters and smoke or up to 300 meters. In addition, the GIEI also determined that there was a fifth bus involved that was not investigated and no statements were taken from the drivers; there were videos whose content was erased; some areas of the crime scene were not examined; the autopsies were done poorly; and some of the persons detained between October and December 2014 alleged that they had suffered abuses, mistreatment and torture by the security forces. Specifically, the GIEI report indicates that of the 80 detained persons who underwent a medical exam, 19, or 23%, did not present any injuries, while 77% of them did report injuries. In its observations to the draft of this report, the State indicated that 111 persons—including alleged perpetrators and masterminds—have been charged in relation to the events in Iguála, and that the investigation is still ongoing. In addition, it informed that the PGR, in a show of transparency and good faith, has carried out the corresponding investigations of such allegations.

149. The State also emphasized the close collaboration with the Interdisciplinary Group of Independent Experts (GIEI) and the opening of new investigation avenues in response to its recommendations.

150. To date, according to information received, the remains of one of the students have been identified and there is evidence of the possible identification of a second student. In that respect the Argentine Forensic Anthropology Team (EAAF) has stated that it was not present when the PGR allegedly recovered the bag in the San Juan River that contained the sample of the bone fragment of Alexander Mora Venancio, which was larger than the rest of the bone samples presumably found. As for the bone remains obtained from the same bag that were sent to the Gerichtsärzte am Institut für Gerichtliche Medizin der Medizinischen Universität Innsbruck Laboratory in Innsbruck, Austria, for possible identification of Jhosivani Guerrero de la Cruz, the EAAF considers that the results show only a possible match.

151. During the IACHR’s in situ visit, it met with the GIEI. The Commission backs the work the Group has undertaken to date in all its aspects, and supports the reports and recommendations submitted by the Group. Furthermore, on October 20, 2015, a hearing took place at IACHR headquarters with the participation of the Mexican State, victims’ relatives and representatives, and the full Commission. The State confirmed at that hearing, in keeping with the GIEI’s recommendations, that the

190 GIEI, Ayotzinapa Report, Investigation and first conclusions of the disappearance and murders of the teaching students of Ayotzinapa, pp. 147-149.
191 GIEI, Ayotzinapa Report, Investigation and first conclusions of the disappearance and murders of the teaching students of Ayotzinapa, pp. 200-201.
PGR had decided to: transfer responsibility for the investigation of the case from the Deputy Attorney General’s Office for Special Investigations on Organized Crime Investigation (SEIDO) to the Deputy Attorney General’s Office for Human Rights, Crime Prevention, and Community Services (SDHPDSC); appoint a new team to investigate the case, including a new special prosecutor to lead up the investigation, in consultation with the GIEI, and replacement of all its members, who will be selected respecting the principle of impartiality, autonomy, and independence through transparent processes; and reorient the investigation in order to follow lines [of inquiry] that stem from the GIEI’s report. The Attorney General informed on October 8, 2015, that that day the case file would be sent from SEIDO to SDHPDSC. However, information received by the Commission indicates that as of early November 2015, certain proceedings were still being carried out at SEIDO, which indicates that the file was not transferred in its totality to SDHPDSC. On a separate aspect of the case, the IACHR welcomed the publication of the case file on the Internet in October 2015.

152. In its observations to the draft of this report, the State indicated that on November 10, 2015, the Specialized Unit for Investigation and Search for the Ayotzinapa case started operations. This office depends of the Deputy Attorney General’s Office for Human Rights, Crime Prevention and Community Services. The Unit is made up of a multidisciplinary team that includes public prosecutors, doctors, ministerial police and will be collaborating constantly with the GIEI.

153. One of the pending points in the GIEI’s work is the interview with the soldiers of the 27th Infantry Battalion who were present in Iguala on September 26 and 27, 2014, which the Group requested as of the first weeks of its work. To date, the Mexican government has not given its go ahead for the GIEI to interview these soldiers, offering instead the possibility of them to respond in writing. During the public hearing on October 20, 2015, the Mexican State reiterated that any proceedings involving the 27th Battalion would take place under the purview of the Public Ministry in charge of the case. In its observations to the draft of this report, the State stated that almost 50 members of that Battalion have given their official statements, and that there is full willingness on the part of the State to expand those statements, within the applicable legal framework. In the above mentioned Public Hearing, the State underscored that the decision as to whether to allow members of the GIEI to interview soldiers is not up to military leaders, rather the President of the Republic, who is the supreme commander of the armed forces by constitutional mandate. The IACHR reiterated its call to the Mexican State to allow the GIEI experts to interview the soldiers of the 27th Infantry Battalion, as the Group has requested.

The IACHR expresses once again its appreciation for the Mexican State’s openness to international scrutiny, and the GIEI’s work in particular. The Commission is convinced that this openness and the cooperation agreements that have given rise to the GIEI’s work, which are based on the requests made by the State and representatives of the victims’ family members, are key to making progress in the protection of human rights in Mexico and to shedding light on the fate of 43 students from Ayotzinapa, as well as punishing the perpetrators. The IACHR agreed to extend the GIEI’s mandate for six more months until April 30, 2016.

ii. “The Other Disappeared” in Iguala

Due to the search for the disappeared students of the Raul Isidro Burgos rural school in September 2014 and the national and international attention focused on Iguala, the families of other disappeared persons in Iguala and surrounding areas began sharing their stories. The Commission met with this group in Iguala. They call themselves “the other disappeared,” because that’s how “the press has dubbed them.”

There are currently more than 400 families that meet and conduct their own searches for unmarked graves, with the hope of finding their families members – men, women, boys and girls – who have been missing since 2007. All of the cases have gone unpunished. They told the Commission that “people stay quiet out of fear of going missing. This still happens.” The IACHR expresses its alarm over the information it has received indicating that 30 people of varying ages and sexes, with no apparent connection among them, disappeared on July 1, 2013 from several different places in Cocula. Their whereabouts are still unknown and there is no information on the investigation.

Sixty unmarked mass graves were found in the search for the students of Ayotzinapa. So far, 129 bodies have been found and only 16 have been identified. The institutional inability to address this problem is why the families themselves are carrying out their own searches for unmarked graves in Iguala, in search of their missing family members. Since November 2014, 106 bodies have been found. To date, only 7 have been officially identified.

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200 The decision adopted by the IACHR, based on its authority to monitor the situation of human rights in keeping with Article 106 of the Charter of the Organization of American States, Article 41 of the American Convention on Human Rights, and Article 18 of its Statute, as well as paragraph 10 of the above-referenced Technical Assistance Agreement.


158. The brother of one of the disappeared persons told the IACHR in Iguala that he quit his job to work full time on searching for his brother’s remains “because my mother is dying of grief and I have to find him.” Going off of anonymous reports on the lands where the unmarked graves are located, the families described their search techniques. “We go out in a borrowed car and we go to the mountain and wherever the ground sinks a little, that could be a sign that someone is buried there. We stick this rod in and smell it and if it smells putrid, we know a body is there. [...] And that’s the technology we use to find bodies, but the Attorney General’s Office won’t let us use the rod anymore,” described the family member of a missing person to the IACHR on a piece of land where 18 bodies were found outside Iguala.

159. The IACHR reaffirms its particular concern over the insecurity in the Iguala Municipality. The testimonies it heard were categorical in signaling their concern over the creation of the new law enforcement team. According to testimonies, the new heads of security in the new local administration in Iguala had been investigated and interrogated over the disappearance of the Ayotzinapa students. The IACHR, therefore, urgently calls on the Mexican State to adopt protection measures for the families of the “Other Disappeared” in Iguala.

iii. Status of the Disappearances that Occurred during the So-Called “Dirty War”

160. Several civil society organizations have reported to the Commission that the repression, culture of impunity and arbitrariness, and lack of justice that have existed in Guerrero since the time of the dirty war have allowed a context of widespread violence and serious human rights violations, similar to those of the past, to persist to the present day. The IACHR is currently processing some of these cases.

161. From the late 1960’s to the end of the 1970’s, the Mexican State “applied a strategy of political and social containment, the so-called “dirty war,” to contain and destroy real or perceived dissident groups.” Against this backdrop, numerous forced disappearances reportedly occurred, in addition to the massacres and torture carried out by both military armed forces and civilian police. A testimony

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203 IACHR, Public Hearing, General Human Rights Situation in the State of Guerrero, Mexico, March 20, 2015. In its observations to the draft of this report, the State noted that “the Mexican State has recognized its responsibility in the events that took place during the sixties and seventies in some federal states, and, in that sense, it has taken actions to investigate the crimes committed in that context and to make due reparations to the victims. There is no support for the affirmation that there is a problem of impunity that dates back to the dirty war.” Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.


206 IACHR, Public Hearing, Challenges to the Work of the Truth Commission of the State of Guerrero, March 27, 2013. See also the Informe Histórico la Sociedad Mexicana, Fiscalía Especial para Movimientos Sociales y
received by the IACHR in the Federal District indicated that: “In 1974, my father and four siblings were arrested. We've been searching for them ever since. We know that it was the Mexican State who took our parents and brothers and we seek justice.” In its Recommendation 26/2001, the CNDH examined 532 files that it received addressing the alleged disappearances that occurred during the decade of the 1970’s and early 1980’s. In 275 of the cases, forced disappearance could be demonstrated. The CNDH report also confirmed actions involving torture and other cruel and inhuman treatment.

162. As part of this report, the CNDH ordered a series of measures for the families of the victims, such as granting guarantees of non-repetition, the creation of a special prosecutor’s office to deal with these events, and compensation for damages and losses incurred by the surviving victims and their families. During the 2013 public hearing held by the IACHR, the then Assistant Secretary of Human Rights indicated that by accepting CNDH’s Recommendation 26/2001 and offering acts of public apology for the Rosendo Radilla Pacheco case before the Inter-American Court, the State accepted responsibility for the events. The Inter-American Court issued a judgment in 2009 in the Rosendo Radilla Pacheco case against the Mexican State for his forced disappearance in 1974.

163. As a result of the CNDH recommendation, the Special Prosecutor’s Office for Social and Political Movements of the Past (Fiscalía Especial para Movimientos Sociales y Políticos del Pasado—FEMOSPP) was created, which ceased to operate in November 2006, leaving the cases unpunished. During the public hearing on “General Human Rights Situation in the State of Guerrero, Mexico,” held in March 2015, the state indicated that with the FEMOSPP being defunct, any pending criminal proceedings under the charge of the special prosecutor would be referred to the General Coordination for Investigation. In January 2007, 527 preliminary investigations from this prosecutor’s office on inquiries into forced disappearances

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207 The CNDH also determined that in 97 complaint files “there are few pieces of evidence that are themselves insufficient, in legal terms, to conclude the existence of forced disappearance or other human rights violations, which cannot be ruled out; and in 160 cases investigated, forced disappearance was not verified, but it should not be ruled out as an investigation hypothesis [...]” Recommendation 26/2001, issued November 27, 2001. Available in Spanish at: http://www.cndh.org.mx/sites/all/doc/Recomendaciones/20-01/Rec_2001_026.pdf

208 The CNDH ordered a series of measures for the families of the victims, such as granting guarantees of non-repetition, the creation of a special prosecutor’s office to deal with these events, and compensation for damages and losses incurred by the surviving victims and their families. During the 2013 public hearing held by the IACHR, the then Undersecretary of Human Rights indicated that by accepting CNDH’s Recommendation 26/2001 and offering acts of public apology for the Rosendo Radilla Pacheco case before the Inter-American Court, [the State] accepted responsibility for the events. IACHR, Public Hearing, Challenges to the Work of the Truth Commission of the State of Guerrero, March 27, 2013.


211 CNDH considerations before the United Nations Committee on Enforced Disappearances.
that occurred during the dirty war were filed. By March 2014, there were 247 inquiries filed for alleged forced disappearances, of which 121 were in Guerrero.212

164. As a result of the CNDH recommendation, the Truth Commission for the State of Guerrero (COMVERDAD) was created in March 2012. It was charged with investigating the human rights violations that occurred from 1969 to 1979 in the state of Guerrero. Despite the obstacles in fulfilling its mandate, on October 15, 2014, the COMVERDAD issued its final report with conclusions and recommendations.213 In an IACHR public hearing, members of COMVERDAD indicated that the report concluded that there was a demonstrable context of widespread and systematic repression during the dirty war, in which there were serious violations to the rights to life, humane treatment, personal liberty, legal certainty, and the right to a fair trial.214

165. The Commission learned that in August 2015, a member of the armed forces was convicted in the first instance of forced disappearance, but the judgment was still not final. A family member of a disappeared person in Guerrero told the IACHR, “We are suffering from the same pain and, sirs, ours has been so cruel that we have spent more than 40 years searching for our loved ones. The government swallowed them up and we have never, hear me, stopped fighting. They must tell us what happened to them!” The wife of another person who was disappeared during the same period said, “The Attorney General’s Office has been sluggish and shown a lack of interest in solving these cases. We family members have acted as investigators, handing over evidence to the Attorney General’s Office.”

166. The Commission believes that the State has a pending debt in terms of serving justice to the victims of the so-called “Dirty War.” The IACHR reaffirms the content of its 1998 report, in which it recommended that the State conduct serious, expeditious, and impartial investigations into all of the cases of disappearances that were still unsolved and that it punish those responsible. It also urges the State to register the victims that were not included in the CNDH report, in order to

212 In terms of comprehensive reparations for harm suffered by victims of human rights violations during the dirty war, the State indicated that it had initiated a second phase of the program outlined in Recommendation 26/2001, with the development of a diagnostic plan for psycho-social intervention in the Atoyac de Álvarez community, the general goal of which is to create a first point of contact with the target population. It has also implemented a comprehensive medical care program for 533 people. In terms of direct and indirect economic compensation for victims, the State noted that it had amended the purpose of the trust to meet human rights obligations, to include the payment of recommendations issued by the CNDH. It also indicated that it has approved payment in 44 new cases, the amounts of which were calculated according to the trust’s rules of procedure published on May 29, 2014. Individual checks were issued to each one of the family members of the victims. Out of the 44 cases, payment has been made in 31 cases, a partial payment in three cases, and payment is in processing for the remaining 10 cases. It bears noting that 95% of the payments issued were for the State of Guerrero. Since 2011, the payments for 152 of the 275 cases verified by the CNDH have been handled by the Secretariat of Interior. IACHR, Public Hearing, General Human Rights Situation in the State of Guerrero, Mexico, March 20, 2015.

213 Among the obstacles mentioned are the following: restricted access to information, restricted access to the victim’s registry, safety of the Truth Commission team. See: IACHR, Public Hearing, General Human Rights Situation in the State of Guerrero, Mexico, March 20, 2015; IACHR, Public Hearing, Challenges to the Work of the Truth Commission of the State of Guerrero, March 27, 2013.

b. Disappearance of Migrants

As part of the violence that has affected Mexico in recent years, one of the most worrisome phenomena has to do with the lack of attention to cases of disappearances, which is particularly serious for migrants, and the additional challenges that the families of disappeared migrants face in searching for their loved ones and accessing justice. During its visit, the Commission again received information on the serious problem of migrants disappearing in Mexico and all along the migration routes leading to the United States.

During the last several years, the IACHR has followed closely the situation of migrants, asylum-seekers, refugees, victims of human trafficking and internally displaced persons in Mexico. Considering the multiple effects of the immigration phenomenon in Mexico, and particularly as a consequence of the serious situation of insecurity that migrants experience as they transit through the country, a delegation headed by the Rapporeur on the Rights of Migrants visited the country between July and August 2011. In that opportunity, the delegation visited 7 cities in 5 federal states: Mexico City; Oaxaca and Ixtepect, in the state of Oaxaca; Tapachula, in the state of Chiapas; Tierra Blanca and Veracruz, in the state of Veracruz; and Reynosa and San Fernando, in the state of Tamaulipas. The decision to visit these cities was based on the fact that in each of them different aspects of the immigration phenomenon in Mexico could be observed, and on the fact that some of these places are the main access routes for migrants and where the higher number of human rights violations against migrants had taken place, particularly kidnappings. As a result of the visit and of the monitoring process that those situations have received during the last several years, on December 30, 2013, the IACHR approved the Report titled “Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico.”

During the in loco visit carried out this year, in its meetings with groups of families of disappeared migrants and civil society organizations in Mexico City, Tenosique, and Saltillo, the Commission received information and testimonies on the various types of situations that led to the migrants losing contact with their families as they traveled to the United States. Some of these situations include: migrants who

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had not communicated with their families; those in state custody under arrest at
migrant holding centers; those being criminally prosecuted or serving a criminal
sentence; those who did not communicate with their families due to homelessness
or because they had been kidnapped, murdered, or disappeared by organized
crime; or because they died as a result of inclement or extreme weather conditions
on their way to the United States.219 The Commission also received credible
information on cases involving INM (National Institute for Migration) agents and
law enforcement participating or collaborating with criminal organizations in the
kidnapping of migrants, which constitute forced disappearances when these
authorities do not provide information or deny that the incidents occurred.220

170. The Inter-American Commission takes note and echoes what the United Nations
Committee on Enforced Disappearances said in February 2015, when it voiced its
concern over the information recounting numerous cases of disappearances of
migrants, including children, some of which were cases of forced disappearances.
It also shares concern over the challenges that this dramatic situation poses in
relation to the full respect of the rights to justice and truth, particularly given that
the alleged disappeared persons typically do not reside in Mexico. To this end, the
Committee recommended that Mexico – in cooperation with the countries of origin
and destination, and with the participation of victims and civil society – redouble
its efforts to prevent and investigate the disappearance of migrants, criminally
prosecute those responsible, and properly protect informants, experts, witnesses,
and defenders. It also recommended that the transnational mechanism for access
to justice should guarantee: (a) the search for missing migrants and identification
and restitution in cases in which remains are found; (b) ante mortem information
gathering and entry into the Ante-Mortem/Post-Mortem Database; and (c) that the
families of disappeared persons, regardless of their place of residence, are able to
obtain information and participate in the investigations and search for the
disappeared persons.221

171. The Mexican State has acknowledged the complex situation posed by disappeared,
unlocatable migrants and unidentified remains.222 The IACHR recognizes as
progress the signing of the Coolaboration Agreement for the Creation Commission
of Forensic Experts to Identify Remains [Convenio de Colaboración para la Creación
de una Comisión Forense para la Identificación de Restos], signed in 2013 between

219  IACHR, Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico,
220 IACHR, Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico,
221 United Nations Committee on Enforced Disappearances, Concluding observations on the report submitted by
Mexico, in keeping with Article 29, paragraph 1 of the Convention. 23 and 24. February 11, 2015. Available in
Spanish at: http://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/MEX/INT_CED_COB_MEX_19–
564_S.pdf
222 Interventions of the director of Human Rights and Democracy of the Secretariat of Foreign Relations [SRE],
Ambassador Alejandro Negrín; Assistant Secretary for Legal Affairs and Human Rights of the Secretariat of
the Interior [SEGOB], Mr. Max Diener Salas; and the Coordinator of Advisors to the General Directorate for
Legal and International Affairs of the Office of the Attorney General [PGR], Mr. Leopoldo Velarde Ortiz,
IACHR hearing on the situation of missing migrants and unidentified remains in Mexico. Washington, March
Session=125 [Accessed September 19, 2014]
The PGR and civil society organizations, with the objective of collaborating with the PGR in the identification and determination of the cause of death of the remains found in clandestine graves in the states of Tamaulipas and Nuevo Leon. Since its creation, the Commission of Forensic Experts has identified the remains of 22 migrants.\(^\text{223}\) See section on the State’s Response.

172. In its observations to the draft of this report, the State indicated that the PGR has been working on the design of a Mechanism of Exterior Support that consists of a series of actions and measures to guarantee access to justice for migrants or their families who are in another country and who want to have access to authorities located in Mexico, as well as to carry out support action in the search of disappeared migrants and in the investigation of crimes committed against them, seeking to guarantee the rights of the victims. This mechanism will operate through the PGR’s remote offices located at the Mexican embassies in other countries.\(^\text{224}\) In addition, the State referred to the Integral Strategy for the prevention of the kidnapping of migrants, which was formally launched with the Frame Collaboration Agreement for the Prevention and Fight against the Kidnapping of Migrants, entered into by SEGOB, PGR and the CNDH.\(^\text{225}\)

173. The Foundation for Justice and Democratic Rule of Law, in collaboration with committees of family members of disappeared migrants from Central America, at the date of this report’s approval, had documented 106 cases of disappeared migrants with the Committee of Family Members of Deceased and Disappeared Migrants of El Salvador (COFAMIDE); 142 cases with the Committee of Family Members of Migrants of El Progreso, Honduras (COFAMIPRO); and around 10 cases of migrant victims of massacre with the Committee of Family Members of Migrants of Central Honduras (COFAMICEDH). The Foundation for Justice has also documented around 90 cases of family members of deceased and disappeared

\(^{223}\) Collaboration Agreement for the identification of remains found in San Fernando, Tamaulipas and Cadereyta, Nuevo León which will be carried out through a Forensic Commission, entered into by the Attorney General’s Office, the Argentinean Team of Forensic Experts; the Committee of Relatives of Migrants who have Died or Disappeared from El Salvador; the Committee of Relatives of Migrants from El Progreso; the Foundation for Justice and the Democratic Rule of Law; the House of the Migrant from Saltillo, Coahuila; the Diocese Center for Human Rights Fray Juan de Larios A.C.; the Civil Association Mesoamerican Voices; Human Rights Center Victoria Diez, A.C.; and the National Forum for Migration in Honduras. Published in the Federal Official Gazette of the Federation on April 9, 2013. Available in Spanish at: [http://www.dof.gob.mx/nota_detalle.php?codigo=5312887&fecha=04/09/2013](http://www.dof.gob.mx/nota_detalle.php?codigo=5312887&fecha=04/09/2013).

\(^{224}\) Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.

\(^{225}\) According to the State, the Strategy contemplates five lines of action that have as a common objective to eradicate crimes against migrants in Mexico: i) establishing coordination through the signing of specific agreements with the states’ government, aimed at implementing specific actions to address and support migrants who are victims of a crime; ii) implementing an operative plan with the collaboration of the Communication and Transportation Ministry and other instances, with the goal of dismantling organized crime groups that act throughout the migration routes; iii) establishing a communication plan to prevent, inform and create awareness, geared towards the Mexican population and migrants in the country, as well as to sending countries; iv) updating the process for the detention of kidnappers and completion of the investigations; v) install mechanisms for the integral attention to foreign victims. The State indicated that in this context, it incorporates the work of the civilian networks of support for migrants and the Human Rights Commissions. Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.
migrants from Guatemala and 22 cases of disappeared Mexican migrants. There are also 814 disappeared persons registered in forensic databases coordinated by the Argentine Forensic Anthropology Team, which correspond to 767 families.

174. The Commission observes with great concern that the disappearance of persons has become common practice, gravely impacting migrants and Mexicans crossing Mexico on their way to the United States, as well as Mexicans deported from the United States to certain border areas. Based on the information gathered, the Commission observes that the migrants kidnapped by organized criminal groups are frequently victims of physical, psychological, and sexual abuse, prostitution, human trafficking, sexual and labor exploitation, murder, and disappearance.

175. The IACHR reiterates that it recognizes the signing of the Agreement to Create a Commission of Forensic Experts to Identify Remains [Convenio de Colaboración para la Creación de una Comisión Forense para la Identificación de Restos] as a step forward. Said agreement was signed in 2013 between the PGR, the Argentine Forensic Anthropology Team, the Committee of Family Members of Deceased and Disappeared Migrants of El Salvador (COFAMIDE), the Migrant Shelter in Saltillo (Coahuila, México), Foundation for Justice and Democratic Rule of Law, Guatemalan National Working Group on Migration, the Association of Missionaries of San Carlos Scalabrinianos in Guatemala, the Fray Juan de Larios Diocesan Center for Human Rights, Meso-American Voices, and the Honduran National Forum for Migration (FONAMIH). The Forensic Commission’s aim is to cooperate with the PGR to identify and determine cause of death using the remains of 72 murdered migrants who were found on August 23, 2010, in San Fernando (Tamaulipas), at least 193 remains found between April and May 2011 in mass unmarked graves in San Fernando (Tamaulipas), and 49 remains found on May 14, 2012, in Cadereyta (Nuevo León). Since its creation, the Commission of Forensic Experts has identified the remains of 22 migrants.

176. In this regard, as in its 2013 report, the Commission reiterates its recommendations to further develop the work of the Commission of Forensic Experts to Identify Remains in cases occurring along migration routes. It also recommends that the state adopt the necessary measures to create the Transnational Mechanism for Access to Justice for Migrants and their Families, as well as a federal Special Prosecutor’s Office for Crimes of Violence against Migrants.

177. As regards disappeared and missing migrants and unidentified remains, the IACHR recommends that when remains and/or bodies are found that shows signs that they could be those of migrants, that the unidentified remains be preserved adequately. It also recommends not allowing the remains that are still being held by SEMEFOs (Forensic Medical Services) to be cremated or sent to mass graves. It recommends protecting remains already in mass graves from any further handling. With a view to identifying disappeared migrants and unidentified remains, the IACHR repeats its recommendation to implement a national mechanism to facilitate the exchange of forensic information on the unidentified remains of Mexicans and Central Americans disappeared in Mexico with the forensic databases of disappeared migrants that have been developed throughout the region, like those of El Salvador, Guatemala, Honduras, the State of Chiapas, and
others that might be created. This national mechanism should be integrated with a similar regional mechanism that would expand the sharing of forensic information among the countries of Central and North America. Both mechanisms must include the participation of civil society organizations in their management.

178. The Commission was informed during its on-site visit of the imminent creation of a special prosecutor’s office of the PGR to address crimes against migrants.

c. Disappearances and Forced Disappearances of Women

179. The IACHR has closely followed the disappearances of women in Mexico for many years.\footnote{IACHR, The situation of the rights of women in Ciudad Juarez, Mexico: The right to be from violence and discrimination, OEA/Ser.L/V/II.117, Doc. 44, March 7, 2003. Available at: http://www.cidh.org/annual-rep/2002eng/chap.vi.juarez.htm} According to information received by the IACHR, the number of cases of disappearances and forced disappearances of women and girls take place in various parts of the country. This has sparked alarm in civil society, as evidenced by the requests for gender warning alerts in several states.\footnote{Amnesty International, Civil Society Organizations Demand the State Stop Feminicide Violence. April 29, 2015. Article published March 5, 2015 in Lado B, Puebla supera al Estado de México en desaparición de mujeres [Puebla Surpasses the state of Mexico in Number of Disappearances of Women]. Article published November 25, 2011 in CNN Mexico, Las denuncias por desaparición de mujeres aumentan en 600% en un año [Claims of Disappearances of Women Increase 600% in One Year]. Article published February 28, 2015 in Plumas Libres, Desaparecen 400 mujeres jóvenes en estado de México; [400 Young Women Disappear in the State of Mexico]. Article published June 24, 2015 in Proceso, Búsqueda de desaparecidas en Edomex, entre torpezas y omisiones [Search for Disappeared Women in Edomex, between Ineptitude and Omissions].} In keeping with information updated on April 30, 2015 regarding disappearances falling under state and local jurisdiction,\footnote{Information on missing individuals provided by the General Attorneys’ and Prosecutors’ Offices in the states based on data from preliminary investigations, investigative files, or substantiated reports. See: Secretariat of the Interior, Office of the Executive Secretary for the National Public Security System, Nota Metodológica Fuero Común [Methodological Note on State and Local Jurisdiction], Database of National and Local Cases of Missing Persons. According to this Note, the database only includes registries of persons who, at the date of the note, were still missing, i.e. the total number of individuals that were reported missing at some point, minus the number of persons found. The registries are compiled, verified, and regularly updated based on search and recovery actions. As such, the statistics are constantly adjusted and do not reflect trends} there were 7,060 women reported missing and disappeared since 2011.\footnote{SEGOB, Press release from the General Directorate for Legal and International Affairs of the Office of the Attorney General, August 21, 2014.} Of these women, 1,170 disappeared in Tamaulipas, 1,007 in the State of México, 549 in Nuevo León, 412 in Coahuila, 367 in Guanajuato, 333 in Puebla, 323 in Jalisco, 281 in Mexico City [Federal District], 224 in Chihuahua, 218 in Michoacán, 206 in Sinaloa, 173 in Sonora, 154 in Guerrero, 148 in Hidalgo, 143 in Veracruz, 124 in Aguascalientes, 111 in Tabasco, 100 in Oaxaca, 99 in Querétaro, 72 in Quintana Roo, 54 in Campeche, 42 in Durango, 42 in Zacatecas, 40 in Morelos, 24 in Yucatán, 21 in Colima, 19 in Chiapas, 12 in San Luis Potosí, 7 in Tlaxcala, and 2 in Baja California Sur.
180. According to information from the National Registry for Missing and Disappeared Persons, through June 30, 2015 on cases falling under federal jurisdiction (preliminary investigations initiated by the Attorney General’s Office as of January 2014), there were a total number of 125 women reported as disappeared or missing. Of these 125, 33 were reported missing in Guerrero, 17 in Veracruz, 16 in the State of Mexico, 15 in Tamaulipas, 14 in the Federal District, 14 in Chihuahua, 3 in Morelos, 3 in Hidalgo, 3 in Tlaxcala, 2 in Coahuila, 2 in Nuevo León, 1 in Sinaloa, 1 in San Luis Potosí, 1 in Michoacán, 1 in Baja California, 1 in Guanajuato, 1 in Puebla, 1 in Tabasco, and 6 abroad.

181. The IACHR has addressed this serious problem in its work on Ciudad Juárez and cases like “Cotton Field” and Paloma Angélica Escobar Ledezma. There are serious issues with the registering of disappeared women and girls, as well as the investigation, justice, and prevention of the disappearance of women. The IACHR expresses its profound concern over the lack of progress made in investigations into the disappearance of women and the deep divide between the laws and public policies adopted and the daily reality of women in Mexico.

182. In August 2012, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) recommended that the Mexican State develop an official systematic registry of forced disappearances, examine the criminal codes to classify forced disappearance as a crime, and simplify the existing procedures for activating the ALBA Protocol and Amber Alert Mexico to launch the search of disappeared women and girls without delay. In March 2015, Mexico submitted a report to the CEDAW Committee, in which it presented the advances it had made in fulfilling the recommendations. As regards the ALBA Protocol, the Mexican State informed the CEDAW Committee that “is an operational investigation mechanism for immediate coordination and reaction among federal, state, and municipal authorities in cases of missing women and girls.”

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231 Secretariat of the Interior, Office of the Executive Secretary for the National Public Security System, Registro Nacional de Datos de Personas Extraviadas o Desaparecidas [National Registry of Missing or Disappeared Persons]


233 United Nations Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of Mexico. Addendum. Information provided by Mexico on the follow-up to the concluding observations, CEDAW/C/MEX/CO/7-8/Add.1, April 23, 2015.

234 The State reported that the Law on the National Missing or Disappeared Persons Data Registry was published on April 17, 2012, and that since then, efforts had been made to ensure that the data received by the country's general attorney’s and prosecutor’s offices are updated and purged. Furthermore, it noted that, in 2013, the Missing Persons Search Unit was created inside the Attorney General’s Office. United Nations Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of Mexico. Addendum. Information provided by Mexico on the follow-up to the concluding observations, CEDAW/C/MEX/CO/7-8/Add.1, April 23, 2015.

235 The Special Prosecutor’s Office for Women Victims of Crime (a body of the Chihuahua State Attorney General’s Office) is charged with activating the ALBA Protocol. The Mexican State indicated that it had made adjustments to the ALBA Protocol to meet international standards on the matter, which have been
Protocol also has a Technical Coordination Group charged with strengthening the protocol.236

183. Regarding the forced disappearances of women, the United Nations Working Group on Enforced Disappearances lamented the lack of publicly available information on women victims of forced disappearances,237 and therefore the importance of including a gender perspective in all measures taken by the State addressing the issue. The IACHR received information indicating that, even after the Cotton Field judgment, many aspects of investigations in cases of deaths and disappearances of women do not take into account a gender perspective. In particular, most cases in which public officials are implicated in possible criminal incidents are not investigated.238

184. The IACHR underscores that States must adopt measures to effectively protect individuals, groups, and communities at particular risk of disappearance, including women and girls.239 The Inter-American Court ruled in “Cotton Field” v. Mexico that given the context of gender-based violence and the disappearance of women, the State has an “obligation of strict due diligence in regard to reports of missing women, with respect to search operations during the first hours and days.”240 This requires exhaustive search activities and prompt immediate action by police authorities, prosecutors, and judicial officials by ordering, without delay, the necessary measures to determine the whereabouts of the victims or the place in

implemented throughout the entire state of Chihuahua since 2013. United Nations Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of Mexico. Addendum. Information provided by Mexico on the follow-up to the concluding observations, CEDAW/C/MEX/CO/7-8/Add.1, April 23, 2015.

236 United Nations Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of Mexico. Addendum. Information provided by Mexico on the follow-up to the concluding observations, CEDAW/C/MEX/CO/7-8/Add.1, April 23, 2015.


238 In its observations to the draft of this report, the State refers to some advances in terms of sensibilization and visualization of the gender perspective in the area of justice administration: the Supreme Court’s Acting Protocol to Judge with Gender Perspective, published in 2014, the purpose of which is to address the problems identified and the reparation measures ordered by the Inter-American Court in the cases of Cotton Field; Ines Fernandez Ortega and Valentina Rosendo Cantu, ralted to the practice of conventionality control by justice administrators. In addition, it stated that the Special Prosecutor’s Office for Crimes of Violence Against Women and Human Trafficking (FEVIMTRA), which is part of the PGR, published the Protocols for the Investigation of Femicide and Sexual Violence, which constitute guides and define guidelines with a gender perspective. The State also highlighted that the Inter-American Court of Human Rights, in the Cotton Field case, considered the creation of the “Alba Operation” and the “Alba Protocol” a positive step, as it was a way to provide greater attention to the disappearances of women in Ciudad Juarez and issued a series of parameters regarding the situations in which the protocol should be activated, which the Mexican State has taken into account. Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015. I/A Court H.R., Case of González et al. (“Cotton Field”) v. Mexico. Resolution of May 21, 2013, Supervision of Compliance with Judgment, paras. 89-91.


which they may have been retained.\textsuperscript{241} Moreover, fulfilling this duty also requires officials in charge of receiving missing person reports to have “the capacity and sensitivity to understand the seriousness of the phenomenon of violence against women and the willingness to act immediately.”\textsuperscript{242}

185. The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará) establishes specific obligations in cases of gender-based violence and serves as an important source of obligations in cases of disappearances of women and girls. The IACHR has stated that the Convention of Belém do Pará establishes that the obligation to act with due diligence acquires a special connotation in cases of violence against women.\textsuperscript{243} The IACHR has established among the most important principles, that the obligations of the States in cases of violence against women, includes the duty to investigate immediately. In addition, in order to conduct an investigation effectively, it should be directed at exploring all investigative lines, including indicia of gender-based violence, informing the family about the status and progress in the investigations. The IACHR has also found that the influence of discriminatory socio-cultural patterns can affect adversely the investigation of a case and the evaluation of the evidence gathered,\textsuperscript{244} for which reason it is crucial not to apply and not to permit the application of stereotypes based on the character of the victim instead of the crime. Stereotypes in investigations are the result of the current situation of inequality and discrimination that many women face due to multiple factors interrelated to gender, such as race, age, ethnicity, socioeconomic conditions, among others.

186. The State has the duty to create adequate procedures for reporting disappearances, which should result in an immediate effective investigation within a few hours. The authorities should assume that the disappeared person has been deprived of liberty and is still alive until her fate is determined.\textsuperscript{245} It bears noting that the Inter-American Court indicated in the Cotton Field case that the Mexican State must harmonize all its protocols, manuals, judicial investigation criteria, expert services, and delivery of justice used to investigate all crimes concerning the disappearance, sexual abuse, and murder of women, in keeping with the United Nations Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (known as the Istanbul Protocol), the United Nations Manual on the Effective Prevention and


Investigation of Extralegal, Arbitrary, and Summary Executions, and international standards on searching for disappeared people, based on a gender perspective.\textsuperscript{246}

d. Disappearance of Children

187. The IACHR has received abundant information regarding the disproportionate effect that disappearances and forced disappearances have on children and adolescents. During its visit to Mexico in October 2014, the Rapporteurship on the Rights of Children received information that indicated an alarming increase in the number of children who have not been found.\textsuperscript{247} According to information from the National Registry of Disappeared or Missing Persons, in Mexico there are more than 7,016 children and adolescents (between the ages of 0 and 17) who are disappeared, which represents 30\% of the total number of disappearances.\textsuperscript{248} According to information from the press, the State of Mexico registered, in 2014, 400 cases of disappeared adolescents, from the cities of Ecatepec, Tecamac, Chimalhuacan and Nezahualcoyotl.\textsuperscript{249}

188. In its observations to the draft of this report, the State provided the following statistics: between January 1, 2012 and January 1, 2015, 15,668 persons were reported as missing, out of whom 3,677 were minors (2,365 girls and 1,312 boys), and the remaining 10,597 are adults (2,179 women and 8,148 men). The State indicated that in 1,394 there was no age given (321 females and 1,073 males).\textsuperscript{250}

189. Another shortcoming observed is that when adults recruit children for organized crime, this is not classified as a crime in the criminal code. Furthermore, there are no effective prevention and protection policies for children in the most vulnerable situations.\textsuperscript{251} Girls are also more heavily affected by disappearances, as evidenced by the disproportionate number of female adolescents who are disappeared.

\begin{itemize}
\item \textsuperscript{248} Of these, in 2012 there were 2,621 disappeared persons between the ages of 15 and 17, 1,712 of whom are women. This would indicate that 7 of every 10 disappeared adolescents between the ages of 15 and 17 are adolescent women.
\item \textsuperscript{250} Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.
\item \textsuperscript{251} CRC, \textit{Concluding Observations on the State of Mexico}. 2015. Available at: http://tbinternet.ohchr.org/Treaties/CRC/SharedDocuments/MEX/INT_CRC_COC_MEX_20804_E.pdf; In its observations to the draft of this report, the State referred to the following: Title Seven of the Federal Penal Code, regarding crimes against health, provides that punishments applicable to the crimes contained in article 194 shall be increased by half in cases in which a minor is utilized to perpetrate any one of those crimes. In addition, Title Eight of the Federal Penal Code, regarding crimes against the free development of personality, provides that the crime of corruption constitute the act of forcing, inducing, facilitating, or procuring one or more persons under the age of 18 hears to carry out any crime or be part of a criminal conspiracy. Said crime is also codified in the penal codes of the federal entities. In the framework of the National Program for the Social
by the fact that they account for approximately two-thirds of the total number of missing children.\footnote{252} The State must adopt specific measures to prevent these more frequent violations of girls’ rights.

190. The IACHR recalls the duties of the State under the instruments of the Inter-American human rights system, particularly in the case of girls.\footnote{253} The Inter-American Court has indicated that children “have the same rights as all human beings […] and also special rights derived from their condition, and these are accompanied by specific duties of the family, society, and the State.”\footnote{254} Furthermore, their condition demands special protection that should be understood as an additional right that complements all other rights that the Convention recognizes for each individual.\footnote{255} The State must, therefore, take special measures geared toward providing special protections for minors, with greater attention and responsibility, in keeping with the principle of the child’s best interest.\footnote{256} The Court also noted that the prevalence of the best interest of the child must be understood as the need to satisfy the rights of children and adolescents, which obligates the State and affects the interpretations of all other rights of the Convention when a case concerns minors.\footnote{257} The State must pay special attention to the needs and rights of the alleged victims owing to their condition as girls who belong to a vulnerable group.\footnote{258}

Prevention of Violence and Crime (PNPSVD), 2,500 formative actions have taken place in topics related to respect for girls and boys, prevention of bullying, culture and sport, de-naturalization of violence, prevention of mistreatment and abuse of children. In the same way, more than 270 cultural, sporting and academic events have taken place. The Program known as “Glories of Sport” has an integral focus on social prevention through football for at-risk youth between 13 and 15 years old. The Program was launched as pilot in 2013 with a total of 1,500 youth in 21 cities. In 2014, the Program grew considerably and included 8,560 young boys and girls in 54 cities in 29 states. Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.


\footnote{253} See, e.g., IACHR, Report No. 51/13, Case 12.551, Paloma Angélica Escobar Ledezma, et al., Mexico (Publication).


This duty is reinforced by the unique vulnerability and exposure of girls to acts of violence, as recognized by the Convention of Belém do Pará. The Inter-American Court has indicated that in cases of violence against girls, the States must demonstrate that they have adopted effective measures to initiate a prompt search, activating all resources to mobilize the different institutions and deploy domestic mechanisms to obtain information to locate the girls rapidly and, once their bodies are found, to conduct the investigations and effectively and promptly prosecute and punish those responsible.\footnote{\textit{I/A Court H.R., González et al. ("Cotton Field") v. Mexico. Preliminary Objections, Merits, Reparations, and Costs. Judgment November 16, 2009. Series C No. 205, para. 410.}}

**B. Attacks on Life and Personal Integrity**

In this section, the IACHR analyzes situations in which life and personal integrity have been affected as a consequence of the violence, particularly extrajudicial executions, torture, and specific situations of concern. Extrajudicial executions, the generalized use of torture, and other cruel, inhuman and degrading treatments during the moments following the detention of a person and before they are taken before a justice authority, as well as the endemic character of impunity for these crimes, are of extreme concern to the IACHR.

The Commission also addresses the effects of violence on particular groups of the population, such as women, indigenous peoples and communities, LGBT persons, children and adolescents, migrants, and persons deprived of liberty.

**1. Extrajudicial Executions**

During the current administration, the executive branch reports in its third Government Report issued September 1, 2015 on the total number of homicides (intentional and non-intentional) that there have been more than 94,000 murders since the current administration took office: 34,903 in 2013, 32,631 in 2014, and 27,047 through September 2015.\footnote{\textit{Statistics Annex to the Third Government Report. Available [in Spanish] at: http://cdn.presidencia.gob.mx/tercerinforme/3_iG_2015_ANEXO-ESTADISTICO.pdf. See also: Informe de víctimas de homicidio, secuestro y extorsión, al 20 de octubre de 2015. [Report on victims of homicide, kidnapping, and extortion as of October 20, 2015] Executive Secretariat of the National Public Security System.}} Regarding intentional homicides, according to official figures for December 2012 through July 2015, 48,000 such homicides were reported.\footnote{\textit{An investigative report from the “Zeta” weekly newspaper questioned this number and considers that the number could be as high as 57,400. Diario Aristegui Noticias, Investigative report from the “Zeta” weekly newspaper: \textit{Van más de 57 mil asesinatos en los que va del sexenio; gobierno oculta 9mil} [More than 57,000 murders so far during this term; Government hides 9,000]; Expresion Liber, 32 months: 57,410 murders, August 30, 2015. Available in Spanish at: http://www.expresionlibre.org/main/escogidas-de-proceso/32-meses-57410-asesinatos. Entravision, \textit{During the Peña Nieto administration, 57 thousand people have been murdered in Mexico}, August 31, 2015. Available in Spanish at: http://noticias.entravision.com/washington-}} According to press reports, the Executive Secretariat of the National
System for Public Safety reported 33,347 preliminary investigations for intentional homicide between December 1, 2006 and July 31, 2009, and 47,988 preliminary investigations and victims of intentional homicide between December 1, 2012 and July 31, 2015.\textsuperscript{262}

195. It bears noting that, according to the National Institute of Statistics and Geography (INEGI), the 2013 homicide rate was 19.5 per 100,000 inhabitants and the 2014 homicide rate fell to 16.43 per 100,000 inhabitants.\textsuperscript{263} The IACHR welcomes this reduction and hopes to see the downward trend continue. The World Health Organization (WHO) believes that a rate equal to or higher than 10 homicides per 100,000 inhabitants constitutes epidemic levels of violence. The figures provided by the Executive Secretariat of the National System for Public Safety are, therefore, worrisome for the states with the highest homicide rates like Guerrero (41.59), Sinaloa (33.33), and Chihuahua (29.36), which are much higher than the national average,\textsuperscript{264} and the vast majority of the cases remain in impunity.

196. In April 2014, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heynes, expressed concern in his report on Mexico that the country "continues to experience alarming levels of violence. Extremely violent incidents, particularly violations of the right to life, continue to take place at an intolerable level."\textsuperscript{265} According to information provided to the Special Rapporteur on extrajudicial, summary or arbitrary executions by the Mexican authorities, 102,696 intentional homicides were committed from December 2006 to November 2012.\textsuperscript{266} Given the high homicide levels, the Special Rapporteur referred to a "systematic and endemic impunity." According to the CNDH, only around 1 to 2 per cent of crimes, including homicides, currently lead to conviction.

197. In a press conference following his recent visit to Mexico in 2015, the UN High Commissioner stated that “For a country not engaged in a conflict, the estimated
figures are simply staggering: 151,233 people killed between December 2006 and August 2015, including thousands of transiting migrants.”

198. Certain recent statistics are not encouraging. According to the most recently available information, an average of 51 to 52 people have been violently killed per day in 2015. This is a 6% increase over 2014. In the capital city, 642 preliminary investigations were recorded for intentional homicide (for 679 murders) in the first nine months of 2015 – a 20% increase over the first nine months in 2014. As the Commission has mentioned on other occasions, in addition to the high homicide rate in Mexico and the lack of adequate, complete statistical information on the prevalence of extrajudicial executions in the country, another concern is that – regardless of upward or downward changes in trends – the vast majority of these crimes go unpunished.

199. In an October 2015 public hearing regarding reports of extrajudicial executions in Mexico, civil society organizations noted that the National Defense Ministry (SEDENA) had reported that between 2007 and 2012, during alleged acts of “aggression against military personnel,” 158 members of the military and 2,959 “alleged civilian attackers” died. They indicated that for every member of the military killed, 18.7 civilians died. According to other official figures gathered by the organizations, between January 13, 2007 and April 5, 2014, 3,967 civilians were killed during alleged confrontations. They also reported that 209 members of the military died between January 13, 2007 and October 30, 2014 (meaning 19 or more civilians died for every military death).

200. The organizations indicated that the Navy (SEMAR) reported a total of 140 confrontations in 2012, 2013, and 2014, during which there were 296 civilian and 14 navy deaths reported, in addition to 10 civilian and 60 Navy members wounded. According to the total figures cited by the SEMAR, there were 21.1 civilian deaths per Navy death. The organizations also indicated that, although members of the Navy were 4.3 times more likely to be injured than killed, civilians were 29.6 times more likely to die than survive an injury. According to civil society organizations, in its breakdown of these totals for specific confrontations, the

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267 Statement of the UN High Commissioner, Zeid Ra’ad Al Hussein, on his visit to Mexico, October 7, 2015.
SEMAR only accounted for 109 alleged confrontations that resulted in 193 civilian and three Navy deaths, i.e. 64.3 civilian deaths for every Navy death. In the last three months of 2014, the SEMAR reported 25 civilian deaths, with no information on any Navy casualties or civilian injuries.272

201. No figures are available from SEDENA for the remainder of 2014 or for 2015 to date. The National Defense Ministry reported that, “since April 6, 2014, such statistics have no longer been kept as this is no longer necessary for this federal executive agency, given that [...] the Ministry's teams, after fending off an attack, merely preserve the scene until the competent authorities arrive and then dissociate themselves from the ensuing investigation processes.”273 This would seem to contradict the stipulations of the Manual del Uso de la Fuerza de Aplicación Común a la Tres Fuerzas Armadas [Joint Armed Forces Manual on the Use of Force], which indicates that following an attack, a “detailed report of the event where force was employed is to be prepared pursuant to the provisions issued by both Ministries in this regard.”274 For its part, SEMAR indicated that it removes the information from its archives after 1-3 years.275 In addition to the possible non-compliance with the Mexican norms, the fact that the armed forces are not accountable regarding their fatal actions is extremely serious, since it could make it more likely that there will be excessive use of force, as well as contribute to impunity in human rights violations.

202. During a public hearing before the IACHR on Reports of extrajudicial executions in Mexico, civil society organizations indicated that SEDENA and SEMAR troops were involved in more than 3,500 armed clashes between December 1, 2006 and December 31, 2014.276 According to data furnished by these two institutions, more than 4,000 civilians were killed by Mexico's armed forces during that same period. The IACHR notes that between 2006 and April 2013, 39 of the 52 recommendations issued by the CNDH in connection with violations of the right to life were addressed to SEDENA and SEMAR. This means that three out of four CNDH recommendations having to do with the right to life were directed at the armed forces.277 These figures heighten the concern expressed by the IACHR that the armed forces are involved in citizen-security tasks, which should be the competence of civil security forces.

274 Article 15(c)(iii) of the Manual del Uso de la Fuerza y Aplicación Común a las Tres Fuerzas Armadas [Joint Armed Forces Manual on the Use of Force].
276 Information furnished in the context of the Public Hearing on “Reports of Extrajudicial Executions in Mexico,” October 20, 2015.
In this connection, the IACHR expressed its concern over the fact that Mexico has no federal laws that speak specifically to the use of public force. In 2014, a Joint Armed Forces Manual on the Use of Force was published; this Manual contains a number of provisions that raise concern. Despite the fact that the armed forces’ involvement in citizen-security undertakings should be temporary and strictly exceptional in nature, it would seem that the aforementioned Manual normalizes the presence of the military in such tasks, which runs counter to inter-American standards on this matter and is a cause of concern for the Commission.

In a Public Hearing at the IACHR, the State informed that it has the obligation to create the conditions of security for its citizens. Part of this entails addressing the criminal phenomenon consisting of sophisticated, well-organized groups with significant resources with which they acquire specialized weaponry in almost any place along the border, and are capable of penetrating police corporations, primarily the local ones, and which are involved, in addition to drug trafficking, in extortions, kidnappings, human trafficking, organ trafficking, trespassing, etc. As a result, the capacity of these groups makes it necessary to have federal institutions temporarily present in certain areas in support of the legitimately constituted governments.

Thus, it stated that federal forces, in accordance with the legal framework that regulates them and the jurisprudence of the Supreme Court of Justice, act in support of civilian authorities in accordance with the General Law of the National Public Safety System, and the organic laws of the institutions mentioned above, always respecting human rights and abiding by international protocols regarding the legitimate use of force.

Pursuant to the Joint Armed Forces Manual on the Use of Force, members of the military may use force to prevent the imminent commission of a crime and to protect against an attack, among other circumstances. Along these lines, the IACHR has been informed that the armed forces frequently attempt to tamper with crime scenes to make it appear that any incident involving civilians was the result of a confrontation. In such cases, the administration of justice process could be used to make a determination as to whether or not these deaths constituted extrajudicial executions or were the result of an excessive and disproportionate use of lethal force. Nevertheless, high rates of impunity for all crimes continue to exist with...

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278 Information provided by the Secretariat of the Interior in the context of the visit of Inter-American Commission on Human Rights, “Information on Human Rights Requested from the Mexican State by the IACHR.” Annex (Archives of the Commission).


281 IACHR, Public Hearing, Reports of Extrajudicial Executions in Mexico, October 20, 2015.

282 IACHR, Public Hearing, Reports of Extrajudicial Executions in Mexico, October 20, 2015.
respect to police and military operations, and it is thus impossible to obtain reliable figures and statistics these days in connection with how serious the problem of the illegal deprivation of life by State security forces really is.

207. During the visit, the State presented information on the different guidelines that exist in Mexico to regulate the use of law enforcement.283 At the level of the individual states, in 2008, the Federal District [Mexico City] passed a law that regulates the use of force by the Federal District’s law enforcement bodies;284 in 2013 the state of Hidalgo passed a law to prevent, punish, and eliminate torture and the excessive use of force by officials in charge of enforcing the law; in 2013, the state of Morelos passed a law to regulate the use of force by members of police institutions in the public security system; in 2011, the state of Oaxaca passed a law, and the regulation therefor, that regulates the use of force by members of law enforcement agencies; in 2015, the state of Puebla passed a law to protect human rights and to regulate the legitimate use of force by members of police institutions; in 2015, the state of San Luis Potosí passed a law that establishes principles for the use of law enforcement by the State.285 At the federal level, however, no general law exists on the legitimate use of force, specifically as it refers to detentions and protests.286 In its observations to the draft of this report, the State stated that the

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283 General Guidelines for Regulating the Use of Law Enforcement by Police Institutions of the Public Security Secretariat’s deconcentrated agencies; Guidelines on the legitimate use of force that are to be observed by Federal Police agents; Directive regulating the use of force by members of the Mexican army and air force in the exercise of their functions in support of civilian authorities and in enforcing the Federal Law on Firearms and Explosives which should govern the actions of the Federal Police; Secretarial Agreement 27, by which the Directive regulating the legitimate use of force by navy personnel in the exercise of their functions in support of upholding the rule of law was reformed and enhanced. Information provided by the Mexican State during the in situ visit to Mexico. The State likewise referenced the Manual del Uso de la Fuerza de aplicación común a las tres Fuerzas Armadas [Joint Armed Forces Manual on the Use of Force] and the National Human Rights Commission’s (CNDH) General Recommendation No. 12/2006 on the illegal use of force and firearms by public officials or employees responsible for enforcing the law.

284 Available at: http://www.aldf.gob.mx/archivo-f9c89a9f39f8126e00e6800e86e224.pdf

285 Information furnished by the Government of Mexico during the in situ visit. The Mexican government also provided the Regulation for the Law on the Civilian State Police Force of the State of Nuevo León, published in 2015, as well as the following agreements: Aguascalientes – Guidelines on the legitimate use of force to be followed by State Police agents in the state of Aguascalientes (2014); Federal District [Mexico City] – Agreement 16/2013 via which the Federal District’s Public Security Secretariat Protocol on Police Action in the Case of Crowd Control (2013) was issued; Agreement 17/2013 via which the Federal District’s Public Security Secretariat Protocol on Police Action when Detaining Offenders and Alleged Perpetrators (2013) was issued; Agreement 52/2013 via which the Federal District’s Public Security Secretariat Protocol on Police Action when Detaining Adolescents in Trouble with the Law (2013) was issued; Official letter OC/002/2014 via which instructions were issued to police and secretariat officials with respect to detentions entailing the use of force (PGJE DF 2014); Guerrero – Agreement 002/2011 via which the Public Security and Civil Protection Secretariat’s Guidelines for regulating the use of force by and official weapons of the State Police (2011) were issued. The Mexican government further provided the Regulations on the use of force by public law enforcement agencies for the municipalities of San Miguel de Allende, Jerecuaro, and San Luis de la Paz, Guanajuato.

286 The State has made reference to the Cooperation Agreement in the Framework of Respect for Human Rights between SEGOB, SEDENA, SEMAR, the then Ministry of Public Security, and the PGR, which requires the authorities responsible for the use of force to promote, respect, and protect and guarantee human rights within the parameters of their jurisdiction, in keeping with the principles of universality, inter-dependence, indivisibility, and progressivity. The Agreement includes protocols on the legitimate use of force, on detaining and bringing individuals before the judicial authorities, and on the chain of custody. See, United
actions of the members of public forces in terms of use of force should be subject to the provisions of article 1, 21 (paragraph 9) of the Constitution; article 6 of the General Law of the National Public Safety System; article 3, 15 and 19 (section V) of the Law of the Federal Police; article 185, last paragraph, of the Regulations of the Law of the Federal Police; the Federal Law to Prevent and Punish Torture. In addition, it indicated that on April 23, 2012, it published on the Official Gazette of the Federation Agreement 04/2012 of the then-Secretary of Public Safety, which issued the general guidelines for the regulation of the use of force by Police Institutions and descentralized entities of the Secretariat of Public Safety. The objective of said agreement was to establish general norms for the use of public force by police institutions and the descentralized, administrative bodies of SEGOB.  

208. In addition, the State indicated that at the interior of the National Security Commission (CNS), the General Commissioner of the Federal Police has issued several circulars addressed to the Division Chiefs regarding “instructions for the members of the Federal Police,” so that in the exercise of their functions they adjust their actions to the principles of legality, objectivity, efficiency, professionalism, honesty and respect for the individual guarantees and human rights recognized in the Constitution; and so that in the carrying out of their operations related to prevention and fight against crime, in cases in which they detain individuals, they are immediately turned over to the corresponding Public Prosecutor’s Office, abstaining from inflicting on them cruel, inhuman or degrading treatments, as well as instructing them not to use the facilities of the Federal Police as detention centers. According to the State, all of this is in accordance with “Agreement 05/2012, which establishes the general guidelines to turn over persons or goods to the competent authorities,” published on April 23, 2012. There is also the “Bill of Rights applicable to persons when they are detained,” which establishes all the rights of detained persons.  

209. The State also informed that, currently, the Federal Police is carrying out functions of a procedural police, in connection with the implementation of the new Criminal Justice System, for which it relies on the “Protocol for the Security of Courts, Nations, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, Mission to Mexico, A/HRC/26/36/Add.1, April 28, 2014, para. 30.

The State informed the Commission that the Agreement 04/12 provides that the use of public force shall be strictly to the extent required by the exercise of the functions of the police institutions, and shall be aimed at neutralizing and controlling conduct that generates violence and that tend to cause damage to the integrity of other people or of members of the federal police corps. In addition, it provides that the legitimate use of force shall be used also to re-establish public order caused by collective disturbances and by tumultuous acts that generate violence or damages to third parties, property and the physical integrity of other people, as well as situations that create a serious alteration of public order and peace. Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015. See also IACHR, Public Hearing, Reports of Extrajudicial Executions in Mexico, October 20, 2015.


approved at the 38th Session of the National Council of Public Safety.” In addition, the Federal Police, through the Division of Federal Forces, which is in charge of maintaining and re-establishing public order and peace, has issued the “General Guidelines for the establishment of permanent actions to ensure the integrity and ethical behavior of public servants in the performance of their jobs, charges or commissions,” “Systematic Operation Procedures (Implementation of Reaction Operations and immediate alert)” and “Operations of Restoration of Public Order.” The State indicated that, in addition to the foregoing, the Federal Police is subject to the “Basic Principles related to the Employment of Force and Firearms by Public Servants in Charge of Enforcing the Law,” approved at the Eighth Conference of the United Nations on Crime Prevention and Treatment of Criminals, in Havana, Cuba, on September 7, 1990, as well as the Principles for the Protection of all persons subject to any form of detention or prison. Similarly, the authorities in charge of public safety in Mexico are obligated to comply with the provisions contained in international treaties to which the Mexican State is a party.290

210. The IACHR welcomes the fact that in February 2013, the Secretariat of the Interior signed a Cooperation Agreement with the International Committee of the Red Cross (ICRC) for technical assistance in developing a law on the legitimate use of law enforcement and for the development of studies, protocols, and technical advisory services in connection with the search for and locating of disappeared persons, as well as for providing psychosocial support and assistance to their families. As of the time this report was prepared, the IACHR had no knowledge of any draft law having to do with the legitimate use of force.

211. Regarding judgments related to extrajudicial executions, the IACHR was informed of one conviction for an extrajudicial execution in Nuevo León—though it was not definitive—in which the charge was “violence against individuals causing intentional homicide.”291 The IACHR welcomes the fact that the Truth Commission of the State of Oaxaca managed to secure the first indictment for an extrajudicial execution in Mexico in September 2015. 292 The IACHR will follow this case, which is being prosecuted in the local courts, but which could be transferred to the federal court system.


291 Public hearing, Reports of Extrajudicial Executions in Mexico, October 20, 2015. “Case of Anáhuac. Rocio Elias Garza and Juan Carlos Peña” in Annex 3, “EXTRAJUDICIAL EXECUTIONS. Recent or emblematic cases of extrajudicial executions documented by CADHAC.” The organizations indicated that in that same case, the judge decided to acquit two other members of the military, one of the crime of planting evidence, and the other of the crime of breach of the common duties required of all those who are compelled to serve in the army.

292 Oaxaca Truth Commission, Press Release – Indictment for the Extrajudicial Execution of Arcadio Hernández Santiago, September 8, 2015. The indictment was handed down before the Trial Court for Civil and Criminal Matters of Ocotlán de Morelos, in the state of Oaxaca.
2. Torture

The prevalence of the practice of torture is also alarming in Mexico. The Mexican State reported that in April 2015, the PGR had 2,420 torture-related investigations underway and that there had only been 15 convictions for torture at the federal level. According to information requests, the PGR reported a more than twofold increase in the number of reports of torture from 2013 to 2014: from 1,165 to 2,403. Given the number of reports in 2014, the PGR reported that it had conducted 185 expert medical/psychological evaluations as part of its investigation of possible cases of torture. For its part, the CNDH reported having received, between 2006 and 2015, more than 10,200 complaints of arbitrary detention, and more than 9,200 of torture or other cruel, inhuman, or degrading treatment. During his visit to Mexico in 2014, the UN Rapporteur on torture

The Mexican State reported the following 15 convictions for torture at the federal level: (1) Case file 92/2003, Fourth District Court, state of Chiapas, April 19, 2014; (2) Case file 90/2004, Seventh District Court, state of Oaxaca, February 1, 2006; (3) Case file 90/2004, Seventh District Court, state of Oaxaca, January 19, 2007; (4) Case file 22/2006, Fourth District Court, state of San Luis Potosí, August 16, 2011; (5) Case file 35/1999, Second District Court, state of Morelos, October 26, 2006; (6) Case file 35/1999, Second District Court, state of Morelos, March 2, 2007; (7) Case file 35/1999, Second District Court, state of Morelos, April 20, 2007; (8) Case file 35/1999, Second District Court, state of Morelos, November 15, 2012; (9) Case file 35/1999, Second District Court, state of Morelos, May 21, 2013; (10) Case file 175/2012, Seventh District Court, state of Chihuahua, July 16, 2014; (11) Case file 34/2013, Fourth District Court, state of Chihuahua, March 13, 2014; (12) Case file 7/2013, Ninth District Court, state of Sonora, May 22, 2014; (13) Case file 27/2013, Fourth District Court, state of Michoacán, February 11, 2015; (14) Case file 27/2014, Fourth District Court, state of Michoacán, February 11, 2015; and (15) Case file 27/2014, Fourth District Court, state of Michoacán, February 11, 2015. The last three cases on the list furnished by the State list the same case number, same court, and the same date, prompting the IACHR to believe that these involve three individuals convicted in the same case. Information provided by the Mexican State in the context of the in situ visit to Mexico from September 28 to October 2, 2015, “Visit by the Inter-American Commission on Human Rights to Mexico: Information from the Mexican State,” Mexico City, September 25, 2015, Section 1.3, page 15. According to press reports, over the past 10 years there have allegedly been just five convictions for torture at the federal level and eight at the state level. News article published on ElEconomista.com: En estados, sólo ocho condenas por tortura en 10 años [In the states, just eight convictions for torture in 10 years], published on September 4, 2015, citing official figures obtained by the Miguel Agustín Pro Juárez Human Rights Center (PRODH). Available in Spanish at: http://eleconomista.com.mx/sociedad/2015/09/04/estados-solo-cho-condenas-tortura-10-anos.

Data collected by Amnesty International via a request for information and included in the report entitled “Paper Promises, Daily Impunity: Mexico’s Torture Epidemic Continues,” October 2015, p. 5. Available at: https://www.amnesty.org/es/documents/amr41/2676/2015/es/; For its part, the National Commission of High Courts of Justice of the United Mexican States (CONATRIB) provided information to the IACHR that indicates that between 2011 and 2015, nine trials were held and 14 judgments issued for the crime of torture in the states where torture is classified as a crime. The IACHR does not have enough information to determine why there might be more judgments than trials, with the understanding that a trial is the conclusion of a criminal prosecution. In situ visit of the Inter-American Commission on Human Rights, meeting with the National Commission of High Courts of Justice of the United Mexican States, Annex containing the Compendium of Statistics from the High Courts of Justice.

Data collected by Amnesty International via a request for information and included in the report entitled “Paper Promises, Daily Impunity. Mexico’s Torture Epidemic Continues,” October 2015, p. 13. Available at: https://www.amnesty.org/es/documents/amr41/2676/2015/es/; The number of special examinations conducted is of the utmost importance since, according to this same report, an agent of the Public Prosecution Ministry indicated that if there is no special examination with positive results, they cannot move forward and file charges of torture, p. 15.
concluded, after visiting a series of detention facilities and collecting data on a national level, that torture and abuse are widespread in the country. The Subcommittee for Prevention of Torture determined that during the first hours of detention, detainees “are at highest risk of torture or cruel, inhuman, or degrading treatment.” The Commission was able to corroborate these conclusions during its in situ visit, during the visit of the Rapporteurship for Persons Deprived of Liberty in September 2015, and through the information received in the process of preparing this report. Furthermore, the Commission received information indicating that official records on torture and ill-treatment across the country are under-inclusive and are inaccurate, contradictory, and incomplete, which makes it impossible to get an accurate picture of the real magnitude of the problem.

213. In its observations to the draft of this report, the State indicated that “the high number of open investigations related to the probable commission of the crime of torture is explained by the fact that the Supreme Court has issued criteria related to the obligation of ministerial authorities to investigate, as a matter of course, any possible act of torture, even when it has not been reported by the probable victim. The foregoing is based on the principle of exhaustion of investigations, established in article 94 of the Federal Code of Criminal Procedure. In that sense, the fact of having a high number of ministerial investigations open and a low number of convictions should not be used to infer that there is a problem of impunity.”

214. The Commission concurs with other international organizations in noting that in Mexico, torture frequently occurs between the time someone is detained and before that individual is brought before a judge. The types of torture consist of a combination of punches, kicks with boots, and beatings with sticks and the butts of weapons to different parts of the body; insults, threats, and humiliation; electric shocks, generally to the genitals; witnessing or hearing others being tortured; dry asphyxiation and waterboarding; and even forced nudity and sexual torture. In

297 Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment to Mexico, Doc. CAT/OP/MEX/1, May 31, 2010, para. 144.
300 A study conducted by the Human Rights Center of the Free Law School of Monterrey examined the recommendations issued by the State Human Rights Commission of Nuevo León in 2013. Of the 149 recommendations issued, 110 correspond to some violation of personal integrity. Of these 110, 43 have to do with cases of torture. Report submitted to the IACHR during the in situ visit.
addition, the lack of *ex officio* investigations of reports of torture is one of the reasons torture is able continue. The Mexican State should adopt a Single National Registry of detained persons that provides details on the authority and individual responsible for a detention as well as on the chain of command for custody of the detainee, thereby enabling a comprehensive investigation and ensuring due diligence in cases of reports of torture.

3. **Specific Situations of Concern**

215. The events that transpired between 2014 and 2015 warrant particular attention; they have included reports of grave human rights violations perpetrated by the Federal Police, the armed forces, and the Navy. Below is a brief summary of several of these cases.

a. **Tlatlaya, Mexico State**

216. On June 30, 2014, 22 people allegedly tied to drug trafficking were killed in a warehouse in the community of “Cuadrilla Nueva,” in the municipality of Tlatlaya, in the south of Mexico State, following a clash with members of the Mexican Army. A number of these individuals had reportedly been detained and subsequently executed extrajudicially by the soldiers. In this respect, and despite what was later discovered about these events, the National Defense Secretariat initially indicated that the army soldiers had been forced to open fire because they were attacked.

217. The main witnesses to the operation and the events that occurred include a soldier who was wounded and three rescued women who were initially considered victims of kidnapping and were later released. On October 1, 2014, charges of homicide were reportedly brought against three of the eight soldiers being investigated in this case. On October 10, 2014, the Inter-American Commission granted precautionary measures to protect the life and integrity of Ms. Clara Gómez González and her family. On October 21, 2014, the National Human Rights Commission (CNDH) issued Recommendation 51/2014, in which it determined the existence of evidence that would appear to indicate that members of the military had arbitrarily deprived 15 individuals—who had already surrendered in Tlatlaya—of their lives following a clash that lasted between 5 and 10 minutes. In addition, the surviving women had allegedly been victims of torture, mistreatment and sexual intimidation in an attempt to get them to admit they were members of the criminal organization and so they would not talk about what they had seen.

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303 On November 6, 2014, SEDENA publicly reported that it had accepted the CNDH’s recommendation: despite “not agreeing with some of the indications contained in that recommendation, [SEDENA] has made the decision to accept it out of a special interest to help establish the facts, and should it be determined that any
218. The State informed the Commission that on October 29, 2014, investigation number PGR/SEIDO/UEITA/174/2014 was formalized, and through it formal charges were brought against seven members of the Mexican Army as alleged perpetrators of the crime of unlawful exercise of public office; against two members of the Mexican Army for their potential responsibility in the commission of the crimes of abuse of authority, aggravated homicide, and unlawful alteration of the crime scene and evidence related to the crime, and against one member of the Mexican Army for his potential responsibility in the commission of the crime of covering-up, under the hypothesis of not attempting to prevent the consummation of a crime. The matter was under the jurisdiction of the Fourth District Court for Federal Criminal Matters in Mexico State, based in the city of Toluca, under file number 81/2014. The State informed that on October 30, 2014, the court issued an arrest warrant, which was executed on October 31, 2014, against the seven potential perpetrators mentioned above.\textsuperscript{304}

219. According to information provided by the State, on August 6, 2014, criminal charges were brought against two women for their potential responsibility in the commission of the crime of illegal possession of weapons and ammunition. In addition, investigation number PGR/SEIDO/UEITA/136/2014 was opened to continue with the investigation lines regarding other members of the criminal group self-described as “La Familia Michoacana,” who were mentioned in the ministerial declaration of the two women who were charged.\textsuperscript{305}

220. In June 2015, the Miguel Agustín Pro Juárez Human Rights Center issued a report in which it revealed that the orders the soldiers had received, according to the official operations document, were to “operate en masse during the night and to ease activities during the day so they could take down criminals in hours of darkness.” The report in question further confirms that up until then, the PGR had initiated criminal prosecutions against seven members of the military for the murder of eight victims instead of the 22 individuals identified or even the 15 confirmed by the CNDH.\textsuperscript{306}

\textsuperscript{304} Information provided by the Mexican State in the contest of the in loco visit to Mexico between September 28 and October 2, 2015, “Visit of the Inter-American Commission on Human Rights to Mexico: Information of the Mexican State,” Mexico City, September 25, 2015; Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.

\textsuperscript{305} Information provided by the Mexican State in the contest of the in loco visit to Mexico between September 28 and October 2, 2015, “Visit of the Inter-American Commission on Human Rights to Mexico: Information of the Mexican State,” Mexico City, September 25, 2015; Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.

\textsuperscript{306} This has been corroborated publicly. See, for example, the final report on the activities of the Chamber of Deputies’ Plural Working Group to assist the competent authorities in investigating the events that transpired in the municipality of Tlatlaya, state of Mexico, on June 30, 2014, which states that: “The PGR asserted that only eight of the individuals who died could have been deprived of their lives arbitrarily.” A copy of the report can be found at: http://gaceta.diputados.gob.mx/Black/Gaceta/Anteriores/62/2015–/abr/20150421-i–ComunicacionOficial-3.html
221. During a public hearing before the IACHR in October 2015, the petitioners indicated that four of the soldiers prosecuted in the civilian courts had been released because of violations of due process. During that same hearing, the State indicated that the aforementioned orders to “take down criminals” must be considered in the context of the whole document, which, according to the State, contains other calls to respect human rights. It specifically stated that “taking down criminals” means reducing the crime rates and not executing people. The Commission believes that, despite the alleged calls for soldiers to respect human rights, the events that occurred in Tlatlaya reflect the fact that the so-called order to “take down criminals in hours of darkness” had concrete consequences.

222. The IACHR likewise profoundly laments the statement made by the Ministry of National Defense to a national media outlet in October 2015 in which he indicated that no human rights violations had been committed in Tlatlaya, even though the criminal prosecution is still underway. In an interview with a media outlet, the Minister of National Defense stated the following:

“... The soldiers are in jail for military crimes and civilian crimes, there is still no decision by the authority, which is the judge, that says that we are guilty or that we are not, and I would suggest, I would ask that first, the trial be concluded to define whether there is any responsibility. And if there is, well then they should proceed according to the law. We will continue supporting our people. I believe what they have said, and we will wait for the corresponding judge to issue the final decision....

223. The Commission reminds the Mexican State that it is of the utmost importance that judicial authorities are able to conduct their investigations and conclude their criminal prosecutions independently and without external interference of any kind, especially when it comes to matters that might constitute serious human rights violations. The IACHR calls on the Mexican authorities to refrain from making statements that presuppose the outcome of an investigation.

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308 IACHR, Public Hearing, Reports of Extrajudicial Executions in Mexico, October 20, 2015.

309 IACHR, Public Hearing, Reports of Extrajudicial Executions in Mexico, October 20, 2015.

b. Apatzingán, Michoacán

224. A report published on April 19, 2015 provides an account of the acts of violence that transpired between civilians and members of the Federal Police at two points on January 6, 2015 in Apatzingán, in the state of Michoacán. The journalistic investigation that reconstructs the events based on 39 recorded statements, photos, and videos, points to the alleged extrajudicial execution by federal agents of at least 16 unarmed civilians, most under the age of 20, who were holding a sit-in in front of the city hall in Apatzingán because they had allegedly been fired by the former federal security commissioner in Michoacán, Alfredo Castillo Cervantes, without compensation or pay.

225. In the framework of the attributes ascribed to it under Article 41 of the American Convention, the IACHR requested information from the State about the events in question. The State indicated that the protesters had used firearms. Specifically, the State indicated that the reason the Federal Police had shown up in the early morning of January 6 was because they had received an anonymous phone call reporting an armed group engaged in a protest. In this regard the Mexican government assured the Commission that when the Federal Police arrived at the scene, they were surprised with gunfire and two police agents were wounded.

226. In its observations to the draft of this report, the State indicated that because of the events that took place in the morning hours of January 6, 2015, the PGR initiated investigation number AP/PGR/MICH/M-III/008/2015, which took over the investigation started by the Attorney General’s Office of the State of Michoacan. During the events, 44 people were arrested. Criminal charges were brought against

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311 See, e.g., Federal police, authors of massacre in Apatzingán, [Policías federales, autores de masacre en Apatzingán], published in El Economista on April 19, 2015, available in Spanish at: http://eleconomista.com.–mx/sociedad/2015/04/19/policias-federales-autores-masacre-apatzingan-proceso; The report also appeared in news outlets such as El Seminario, Aristegui Noticias, Proceso and Univisión.


313 The State indicated that the presence of Federal Police personnel in the municipality of Apatzingan was due to the Agreement for Federal Support in Security for the State of Michoacan, entered into on January 13, 2014, and is part of the Michoacan Plan, which is under the charge of the Commission for the Security and Integral Development of Michoacan, created by presidential decree on January 15, 2014, and which has as its objective the implementation of necessary actions to strengthen security and integral development of the state, as well as to foster social cohesion and harmonious living among its citizens. As a result, federal forces carry out actions in this sense in 27 municipalities in the state. As a result of those actions, the State pointed to results that have benefited the community, such as: direct communication between citizens and authorities to deal with matters of security, the recovery of public spaces, the development of social programs to address citizens’ demands, the development of a strategy to promote confidence between society and the authorities, the deactivation of criminal groups in the region, decrease in the number of high-impact crimes, the passing of armed civilian groups, through a recruitment program, to a new rural force. According to the State, the “G250 Group” was created, which had been made up of civilians who had as their objective participating in security roles in the municipality. When federal authorities dismantled the criminal targets, the dissolution of this group was initiated through a disarmament process. The State indicated this decision lead to opposing views by different members of the group. Some people agreed to be part of the disarmament process, while others were against it. Communication of the Mexican State, Note OEA01742, Request of Information based on Article 41 of the American Convention on Human Rights. Reports of alleged massacre in Apatzingan, May 21, 2015.
six for the possible commission of the crimes of attempted homicide, assault and possession of a weapon for the exclusive use of the Army. The State informed the Commission that five of the accused are facing the process outside of jail, and only one of them is facing the process in pre-trial detention. Regarding the other 37 people who were detained, the Judge from Fifth District ordered their release.314

227. The State likewise indicated that the respective tests of use of weapons by those killed and wounded had been conducted and the results were positive. The State likewise submitted a list of 34 weapons and rounds seized that morning. Based on the information received, it can be noted that the ruling issued by District Judge Five determined there was no key proof to indicate who had been carrying the weapons confiscated during the detention and that the number of people was not consistent with the number of weapons seized.315

228. Regarding the events that took place in the morning of January 6, 2015, the State informed the Commission of a number of proceedings undertaken, including the application of the sodium rhodizonate chemical test, taking of statements, ministerial inspections, and various forensic reports. Nine people who were killed and three people who were injured tested positive for the presence of lead. The State also indicated that it applied the sodium rhodizonate test to 43 members of the Federal Police, 12 of whom tested positive. Consequently, the Internal Affairs Unit of the Federal Police is currently investigating the events occurred on January 6, 2015.316

229. For several civil society organizations, the events in Apatzingán represent one more case of undue use of lethal force as well as a cover up by the authorities to prevent anyone from learning the truth about the facts; for this reason they continue to denounce deficiencies in the investigation. As of the date of adoption of this report, the events that transpired in Apatzingán are still being investigated.

c. Tanhuato, Michoacán

230. On May 22, 2015, following a clash between federal forces and an alleged criminal group, 43 people (42 civilians and one Federal Police agent) died at the Rancho del Sol, at the border between the municipalities of Tanhuato and Ecuandureo, Michoacán.317 According to the State’s version, this was a confrontation. However, according to media reports, there is some debate about the facts. For example, photographs and statements from locals appear to indicate possible acts of torture,

extrajudicial executions, crime scene tampering, and the planting of weapons. There was reportedly confirmation that more than 70% of the victims had been shot in the back of the neck at point-blank range, and also that one of the victims had not died from a bullet wound, but rather had been beaten to death. The bodies were also said to have been moved and the weapons that were allegedly found on them had magazines of different models and thus could not have been used in combat. In addition, according to press reports, 11 of the men killed had two things in common: They hailed from a poor neighborhood called Infonavit 5 in Ocotlán, Jalisco and their bodies showed signs of torture. According to media reports, the relatives of one of those killed—an alleged member of the Jalisco Nueva Generación Cartel—indicated that after examining the photographs of the bodies, they saw visible burns and broken limbs. Local community members likewise assert that the bodies of their children came back castrated, with marks on their fingers, and in some cases they were missing teeth and an eye. The PGR has taken over the investigation.

In the three cases described, the authorities’ first version—without an investigation having been done—was that the deaths of civilians were the result of clashes. However, statements and evidence point to the alleged involvement of federal authorities and members of the armed forces in events that would appear to constitute cases of extrajudicial executions, tampering with crime scenes in order to present the situations as if they had been a clashes, and irregularities in the investigations.

Human Rights Watch (HRW) documented this type of situation in 2011. Out of a sample of 24 documented extrajudicial executions, HRW determined that in the majority of the cases, there was overwhelming evidence that members of security forces—specifically, the Army—had tampered with the crime scenes following the crime in order to manipulate or destroy evidence. According to HRW:

[...] Rather than question official reports—many of which are marred by inconsistencies and challenged by witness accounts—prosecutors accept security forces’ reports as fact ...The lack of reliable evidence is particularly

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322 PGR Preliminary Investigation No. PGR/SEIDO/UEIDCS/255/2015.
troubling given the evidence, that the cases we examined are not isolated
ones but examples of a more pervasive practice.323

233. The IACHR reminds the Mexican State that the standards of the Inter-American
System have established that when considering actions to be taken in cases where
the use of force is essential, such force should be applied in a manner consistent
with the principles of legality, absolute need, and proportionality. In all cases
where civilians are wounded or killed by the police or the military, the Mexican
State must urgently conduct diligent and impartial investigations in order to
establish the facts and determine the applicable criminal responsibility. In the
interest of transparency, the Commission calls on the State to reinstate the
statistics on the number of civilian deaths, per civilian wounded.

234. The IACHR urges the Mexican State to implement the measures necessary to
ensure that all police authorities and law enforcement authorities in general are
subject to effective accountability structures that include internal and external
oversight systems.

4. Impact on Particular Groups

a. Women

235. The Commission has received information indicating that women in Mexico, as in
other countries, continue to be the victims of certain crimes at rates higher than men. Data from INEGI indicate a higher percentage of female victims compared
with male victims in the crimes of simple rape (82%), human trafficking (81%),
sexual abuse (79%), domestic violence (79%), offenses equivalent to rape (71%),
other crimes against the family (56%), and other crimes against sexual freedom
and security (83%).324 It has also received information indicating that incidents of
gender-based violence continue to be reported in a large number of the country's
regions. The violence and attacks against the life and physical integrity against
women are some of the reasons why civil society has requested the declaration of
an Alert of Gender Violence Against Women (AVGM) on different occasions.325 The
Commission also notes with concern the allegations of sexual violence, especially
against women in detention and the reports of assaults, killings and acts of
harassment against female human rights defenders and journalists.326

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324 National Institute of Statistics, Geography, Public Security and Justice, Registered Victims, accused and sentences, Víctimas registradas en averiguaciones previas iniciadas and carpetas de investigación abiertas, por tipo de delito según sexo 2012 (Porcentaje)
325 Amnesty International (Mexico), Organismos de la sociedad civil exigen al Estado frenar la violencia feminicida, April 29, 2015.
326 National Network of Human Rights Defenders in Mexico, Agresiones contra defensoras de derechos humanos and mujeres periodistas en Mexico, Information for the UN Human Rights Committee on the situation of
236. To address gender-based violence in the country, the Mexican State, spurred on by civil society organizations and recommendations of international bodies, has enacted a series of laws, regulations, institutions and mechanisms.\(^{327}\) One such mechanism is the "alert on gender violence" set out in Article 22 of the General Law on Women's Access to a Life Free from Violence, which is defined as "a set of emergency governmental measures to confront and eradicate violence against women in a given territory, whether perpetrated by individuals or by the community itself", and its main objective is to ensure the safety of women, the cessation of violence against them, and to eliminate inequalities produced by a legislation that breaches human rights.\(^{328}\) In order to achieve that, the State should (i) establish an inter-institutional and multidisciplinary group with gender perspective to appropriately follow-up; (ii) implement preventive actions of security and justice, to confront and defeat feminicide violence; (iii) create special reports about the areas and the patterns of indices of violence against women; (iv) assign all necessary budgetary resources to react to the contingencies of gender violence alerts; and (v) publicize the reason for the gender violence alert, and the geographic area encompassed by the measures to be implemented.\(^{329}\)

237. The issuance of gender violence alerts is the competence of the federal government through the Ministry of the Interior, and is notified to the Executive branch of the state where it is issued.\(^{330}\)

238. According to the General Law on Women's Access to a Life Free from Violence, a declaratory Alert on Gender Violence against Women (AVGM) must be issued

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\(^{327}\) In its observations to the draft of this report, the State indicated that the General Law on Women's Access to a Life Free from Violence was published in February 2007 with the objective of establishing the legal and administrative guidelines through which the State coordinates, at the three levels of government, in terms of prevention, attention, sanction and eradication of violence against women. The State informed that this law was amended on January 15, 2013, with the following amendments: (i) in the chapter on Feminicide Violence, it added a specific reference to the sanctions established in article 325 of the Federal Penal Code; (ii) it reduced the term to issue protective orders from 24 to 8 hours, and it established the immediate implementation and execution of emergency protective orders; and (iii) it incorporated the Ministry of Labor and Social Provision as a member of the National System. The State also informed the Commission that each of the 32 states in the country has its own state Law on Women's Access to a Life Free of Violence. In addition, 29 of those states already have the corresponding regulation. The states of Campeche, Michoacan and Tamaulipas are in the process of adopting it. According to the provisions of the respective laws on Women's Access, each federal state has the obligation to install a local system to Prevent, Punish and Eradicate Gender Violence against Women. To date, all 32 states have their own state system. Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.

\(^{328}\) The legislation establish that in order to comply with the objective of a gender alert declaration, it shall: i) establish an interagency, multidisciplinary group with a gender perspective to follow-up; ii) implement security and justice preventive measures, to confront and put an end to femicide violence; iii) prepare special reports on the area and the behavior of indicators of violence against women; iv) allocate budget resources necessary to address the contingency warning of gender violence against women, and v) make public the grounds for the gender violence alert, as well as the territorial scope covered by the measures to be implemented. Article 23 of the General Law on Women's Access to a Life Free from Violence.

\(^{329}\) Article 23 of the General Law on Women's Access to a Life Free from Violence.

\(^{330}\) Article 25 of the General Law on Women's Access to a Life Free from Violence.
when the following conditions are met: i) common crimes against women’s lives, liberty, integrity and security, breaching the social peace in a given territory and the request by society; ii) a similar grievance impeding the full exercise of women’s human rights; and iii) at the request of human rights organizations at the national level or of the federal entities, civil society or international organizations. In its observations to the draft of this report, indicated that it has made important improvements to the process to issue the Alert on Gender Violence against Women (AVGM), the administrative scrutiny mechanism that is designed to identify context of extreme violence against women in certain areas and, consequently, determine the emergency government actions (prevention, security and justice) that need to be taken to address the problem.

239. It is important to note that it was only in 2015 that the only two existing AVGM’s to date were issued in the country. On July 31, 2015, it was declared in eleven municipalities of Mexico State (Chalco, Chimalhuacán, Cuautitlán Izcalli, Ecatepec de Morelos, Ixtapaluca, Naucalpan de Juárez, Nezahualcóyotl, Tlalnepantla de Baz, Toluca, Tultitlán and Valle de Chalco Solidaridad). The Commission notes the difficulties in issuing the first AVGM in Mexico, and welcomes its adoption. Also, on August 10, 2015, an AVGM was declared in eight municipalities in the state of Morelos (Cuautla, Cuernavaca, Emiliano Zapata, Jiutepec, Puente de Ixtla, Temixco, Xochitepec and Yauatepec). According to information provided to the Commission, there are reports of a refusal to make use of AVGMs, even though civil society organizations requested the activation of the Mechanism for Gender Alert eleven times.

240. The State informed the Commission that of the 9 requests for an alert that have been processed under this new regulation: one was declared approved 15 months after the request (Morelos); another one was declared denied due to the response of the state government to address the recommendations and proposals made by

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331 Article 24 of the General Law on Women’s Access to a Life Free from Violence
333 According to information received by the IACHR in December 2010, civil society organizations filed a request for gender-based alert for the state of Mexico, which was denied. Given the refusal of the National System for Prevention, Care, Punishment and Eradication of Violence, they filed an amparo with the result that the district judge determined that the resolution not to declare the alert was to be left without effect and a new alert issued. However, it was not until April 28, 2014, that the request was acknowledge and an investigation phase was initiated. Finally, on July 31, 2015, the Ministry of the Interior issued a gender alert declaration in eleven municipalities in Mexico. CimaNoticias, Juez admite amparo para que se declare ya AVG en Edomex, February 20, 2015; Mexican Commission for the Defense and Promotion of Human Rights, Gobierno Federal se niega a proteger a las mujeres de violencia feminicida en el Estado de Mexico, February 19, 2015. The AVGM states that the government of the State of Mexico should take the actions necessary to implement the measures of safety, prevention and justice required to ensure the right of women and girls to live a life free from violence by, for example, designing and executing a strategy to regain public spaces and to prevent violence, integrate and upgrade the State of Mexico’s database on violence against women, among others. Interior Ministry Declaratoria de Procedencia respecto a la Solicitud de Alerta de Violencia de Género contra las Mujeres para el Estado de Mexico, July 31, 2015.
334 Press Article published on August 10, 2015 on CNN Mexico, Gobernación emite alerta de violencia de género en 8 municipios de Morelos
335 Amnesty International (Mexico), Organismos de la sociedad civil exigen al Estado frenar la violencia feminicida, April 29, 2015.
the working group (Guanajuato); and the remaining 7 requests are still pending within the allowable timeframes.

241. The Inter-American Court and Commission have pointed out that States must adopt comprehensive measures to comply with due diligence in cases of violence against women. Specifically, the Court has noted that States should have adequate legal protection and effective implementation thereof, as well as prevention policies and practices to effectively respond to complaints. A comprehensive prevention strategy involves the prevention of risk factors and a strengthening of institutions to provide an effective response to cases of violence against women. It should also be noted that in cases of violence against women, the Mexican State, in addition to the general obligations contained in the American Convention, has an obligation reinforced by the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará").

i. Murders

242. According to INEGI, between 2013 and 2014 seven women were murdered daily in Mexico. In 2012, the homicide rate for women was 4.6 women for every 100,000. In addition, between 2011 and 2013, the states with the highest rates of homicides against women were Guerrero, Chihuahua, Tamaulipas, Coahuila, Durango, Colima, Nuevo León, Morelos, Zacatecas, Sinaloa, Baja California and Mexico State. According to INEGI, the trend of homicides of women shows a different pattern than that of men. In the case of men there is a trend that shows a gradual decline between 2000 and 2004, and starting in 2008, this trend changes, reaching its highest level in 2011. In the case of homicides against women, there is a trend that shows "little variations, staying within a constant range between two and three homicides for every one hundred thousand women and with an important increase between 2008 and 2012." Similarly, INEGI reports to another...
difference: the rate of homicide against men decreases starting in 2011, while in the case of women the decrease starts in 2013.  

243. According to the National Citizens' Femicide Watch (OCNF), 1,235 women were victims of murder by virtue of their gender between January 2010 and June 2011, with the greatest number in Mexico State (320), Tamaulipas (169) and Sinaloa (168). The study indicates that 41% (500 cases) of the victims were between the ages of eleven and thirty, 35% (440 cases) between 31 to 50 years of age, and 13% (163 cases) over 50 years old. The OCNF documented that between January 2012 and December 2013, 3,892 women were murdered in Mexico, and only 15.75% (613 cases) were investigated as cases of gender-based violence or femicide. Most of these cases remain unpunished. The IACHR does not have more recent figures regarding gender-based homicides of women in the country.  

244. Also, in cases of serial or mass murders of women, sometimes investigations are conducted in isolation without considering the possible connection between the victims and the facts. According to information available to the Commission, approximately 90% of women victims of violence in the state of Chihuahua are under 18. These deficiencies mainly impact victims in poverty, which further hinders their families' access to justice, leading to impunity for these crimes.  

245. In Mexico, the General Law on Women’s Access to a Life Free from Violence includes the term "femicide violence", which is defined as "an extreme form of gender-based violence against women, resulting from the violation of their human rights, in the public and private spheres, consisting of misogynistic conduct that can lead to social and state impunity and may culminate in homicide and other forms of violent death of women".  

246. The Commission reiterates that States must adopt comprehensive measures to comply with due diligence in cases of violence against women by implementing preventive measures and work towards the investigation, prosecution and punishment of those responsible. It should also be noted that the Inter-American Commission and Court have held that the duty to investigate effectively

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344 National Citizens’ Observatory on Femicide, Una Mirada al feminicidio en Mexico. Enero de 2010 a junio de 2011, p. 15.
345 National Citizens’ Observatory on Femicide, Una Mirada al feminicidio en Mexico. Enero de 2010 a junio de 2011, p. 16.
347 Information received in a meeting with civil society organizations in Monterrey, Nuevo León, on September 29, 2015.
348 Article 21 of the Law.
has a wider scope when it involves a woman's death, abuse or attack on her personal liberty in the context of violence against women.350

ii. Torture

247. The Commission notes with concern information regarding the use of sexual torture and gender-based torture by State agents. In November 2014, various organizations of Mexican civil society published a report denouncing the existence of a practice of physical and psychological violence, specifically sexual torture against women who are attacked and/or arrested by members of the police, military or navy, usually in the context of government security policies. 351 Examples are the cases of Inés Fernández Ortega, Valentina Rosendo Cantú, which have been decided by the Commission and the Court.352 The case of sisters Ana, Beatriz and Celia González Pérez, decided by the IACHR, is also relevant.353 On March 20, 2015, at the 154th Ordinary Period of Sessions, this situation was examined in detail in the hearing on Complaints of sexual torture and gender-based torture against women in Mexico.354 The Special UN Rapporteur on torture and other cruel, inhuman or degrading punishment, Juan Mendez, also noted in his report in his 2014 visit to Mexico, that he was concerned about the use of sexual violence as a form of torture, especially regarding female detainees.355

248. In its observations to the draft of this report, the State referred to the creation of the Mechanism for Addressing Cases of Sexual Torture committed against women, which is the result of an agreement between the Mexican State and the petitioners of the thematic hearing regarding sexual violence, in the context of the 154th Period of Sessions of the Inter-American Commission on Human Rights. The State notified that, as a result of that, on September 9, 2015, the Mechanism was formally installed, and its objective is to review the cases of women who have reported sexual torture contemplated in the campaign titled “Breaking the silence: all together against sexual torture,” prioritizing the cases of women who are imprisoned. In addition to the participation of civil society organizations, the

Mechanism is also made up of SEGOB, PGR, CNDH and the Ministry of Foreign Relations. The primary objectives of the Mechanism are:\textsuperscript{356}

a. Reviewing priority cases of women who have reported sexual torture and who are part of the campaign;

b. Issuing a joint report with recommendations regarding the cases reviewed, which shall contain recommendations to the competent authorities, with the purpose of them acting in strict compliance with the protection and respect for the human rights of women.

c. Monitor and follow on the cases of women who report sexual torture, with a special emphasis on the cases of women who are imprisoned, with the objective of safeguarding their physical and psychological integrity.

d. Develop public policies geared towards the prevention and the fight against sexual torture.

249. In this regard, the IACHR supports the creation of this mechanism and will follow its functioning closely.

250. The Commission takes the opportunity to reiterate the point made by the Inter-American Court in the \textit{Case of Castro Castro v. Peru}, that "the sexual rape of a detainee by a State agent is an especially gross and reprehensible act, taking into account the victim's vulnerability and the abuse of power displayed by the agent."\textsuperscript{357} Importantly, rape is considered an extremely traumatic experience that can have severe consequences, causing great physical and psychological damage that is difficult to overcome with the passage of time.\textsuperscript{358}

251. It should be noted that the Inter-American Court has stated that "the State is responsible, in its condition of guarantor of the rights enshrined in the Convention, of the observance of the right to humane treatment of any under its custody."\textsuperscript{359} The State can be held responsible for torture, cruel, inhuman or degrading treatment suffered by an individual who has been under the custody of state agents, where the authorities have not conducted a serious investigation of the facts and then for not prosecuting those allegedly responsible for them.\textsuperscript{360}

\textsuperscript{356} Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.


### b. Indigenous Peoples and Communities

Serious human rights violations against indigenous peoples and communities in Mexico occur in two main areas: violence in the context of mega-projects on ancestral lands and territories authorized without the due process of free, prior and informed consultation and consent; or in the context of title claims affecting their land, and the lack of due process in criminal matters. They have repeatedly denounced the granting of State concessions to private companies in violation of the right to prior consultation. As a result of the struggle for their lands, information has also been received about the criminalization of human rights defenders of indigenous peoples.

#### i. Murders, Executions, Harassment and Threats

Up to December 2013, there were an estimated 2,600 mining concessions in Mexico, many of which were located on the ancestral territories of indigenous peoples without their consent. At a public hearing at the IACHR, the petitioners stated that 35% of the national territory has been concessioned through more than 29,000 concessions—mining, hydroelectric, and wind power. 17% of them are inside some indiengous territories. According to the petitioners, some concessions are very significant because they encompass almost the totality of small towns. The State indicated that in compliance with the national and intentalional legal framework, and pursuant the obligagations assumed in relation to indigenous peoples, in February 2013 it approved the Protocol for the implementation of consultations with indigenous peoples in accordance with ILO Convention No. 169 regarding Indigenous and Tribal Peoples in Independent Countries, which contains the international standards on the subject and sets forth the methodology to carry out a consultation process. In addition, the State indicated that the Judicial

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361 CNN Expansion, Energy Law, threatened by land. January 24, 2014. http://www.cnnexpansion.com/nergicos/2014/01/23/energetica-traera-conflictos-por-tierra. In its observations to the draft of this report, the State indicated that the Ministry of Energy iniciated a process of harmonization of legislation, which concluded in August 2014 with the adoption of the laws on Hydrocarbons and on the Electrical Industry. The State reported that these laws included chapters titled “Social Impact,” which established the obligation to respect, protect, promote and guarantee the human rights of all persons in the development of projects in the energy sector, with a special emphasis on indigenous peoples and communities. The regulations of these laws establish that the prior consultation shall be carried out with adequate proceedings through the representative institutions of each indigenous people and community, observing the principles of good faith, liberty, accommodation and reasonableness, among others. The State also stated that the Ministry of Energy has undertaken the following consultation processes: Consultation process for the Rarámuri People regarding the construction and organization of the El Encino-Topolobampo Gas Pipeline, Consultation Process for the Zapotec Communities of El Espinal and Juchitán de Zaragoza, in the state of Oaxaca, and Consultation process for the Yaqui Tribe regarding the project of the Sonora Gas Pipeline. In its response, the State did not inform regarding the results of these consulations. Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.


Branch has issued judgments that constitute a reference point for the protection of the human right to prior consultation and the participation of indigenous peoples.

254. Violence in the context of mega-projects has resulted in murders, executions, harassment and threats against indigenous people in many states of the country. The Commission was aware of the arrests of indigenous leaders in Guerrero, Oaxaca, Chiapas, Quintana Roo, Sonora, Chihuahua and Puebla, among others, in connection with their activities in opposition to various megaprojects.\(^{364}\) When it comes to violence in indigenous territories or communities where large projects are located, the common denominator is the granting of permits or concessions without consultation and without free, prior and informed consent. This often triggers social unrest and eventually leads to violence, and even costs individuals their lives.\(^{365}\)

255. Information has also been received regarding violence by Mexican State agents in the indigenous community of Ostula, Michoacan, in July 2015, when a child was killed by a gunshot allegedly from the Army, and others were injured.\(^{366}\) The community leader and alleged member of a self-defense group in Ostula was arrested after these violent events. At the date of approval of this Report, the authorities were still investigating the case without having clarified what happened.

256. When members of an indigenous people are involved in legal proceedings as victims, accused or witnesses, the entrenched discrimination interferes with the respect for judicial guarantees to ensure full respect for their due process rights, such as the lack of interpreters and of intercultural training for justice operators. After a visit to Mexico, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions found that in Mexico it is common to set traps to incriminate innocent individuals, and this produces discriminatory effects for indigenous people and people in poverty.\(^{367}\)

257. In its observations to the draft of this report, the State indicated that on March 5, 2014, it incorporated a special process for indigenous peoples and communities under Title X of the National Code of Criminal Procedure. In addition, both the Uniform Protocol for the Investigation of the Crime of Torture and the Uniform Protocol for the Search of Disappeared Persons and Investigation of the Crime of Forced Disappearance include specific proceedings for persons who are members of indigenous peoples and communities. Also, in 2003, the Specialized Unit for Attention to Indigenous Matters was created, and is under the Deputy Attorney

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\(^{365}\) Information received during the in loco visit in meetings with civil society organizations in Mexico City, September 28, 2014. “Barriers to access to justice to violation of human rights in Mexico”, Report presented to the IACHR during the in loco Mission to Mexico from September 28 to October 2, 2015, p. 32.

\(^{366}\) Request for a thematic hearing on extrajudicial executions in Mexico, 2014-2015 for the 156th Period of Sessions, received by the IACHR on July 28, 2015.

General’s Office for Human Rights, Crime Prevention and Community Service, part of the PGR, as well as a national roster of interpreters and translators of indigenous languages administered by the National Institute of Indigenous Languages.368

258. In the same vein, the Commission has recently received information about the alleged misuse of the criminal law against indigenous defenders, environmentalists and peasant leaders.369 Factors like discrimination and exclusion also contribute to indigenous people being more likely to be victims of torture and other cruel, inhuman or degrading treatment when arrested.

259. In states with large indigenous and rural populations, such as Guerrero, the absence of legal assistance is serious, due to the lack of bilingual public defenders. There is also a lack of translation services and suitable infrastructure. In addition to the scarcity of forensic doctors in these areas, they are not sensitive to the cultural and social situation of the population.370 This poses additional barriers to access to justice for indigenous peoples and communities.

260. In this regard, the Commission recalls that the States have the obligation to investigate all crimes with due diligence, and when indigenous people are involved, that obligation calls for the inclusion of the appropriate cultural perspective.371 In practice, this means that the authorities must take into account the context giving rise to the violence, take procedural steps with the victim and the families in a way sensitive to the surrounding social and cultural situation, take into account possible discrimination due to their status as members of indigenous peoples, consider not just the individual but also the collective aspect produced by the offense or offenses, ensure that access to justice for the victim(s) and their families is effective and timely, and to consider the support of interpreters, translators, as well as other tools to ensure the full participation of all parties according to the needs of the case.372

369 IACHR, Public Hearing, Complaints of the destruction of the bio cultural heritage of Mexico by the construction of megaprojects, 153th Period of Sessions, October 30, 2014.
c. LGBTI Persons

i. Murders and Attacks

261. The Commission's Special Rapporteur on the rights of LGBTI persons received information that in a period of 15 months (between January 2013 and March 2014),\(^\text{373}\) there were a total of 42 murders and 2 attacks on physical integrity in Mexico (both knife attacks) against transgender people (or perceived as such); 4 attacks on the physical integrity of lesbians (or perceived as such), 3 of which were beatings and one death threat; and 37 murders of gay men (or perceived as such) and two attacks on the physical integrity, including a case of mutilation where the victim's eyes were torn out, and another related case of sexual violence and beatings from Police agents.

262. Between 1995 and 2014 there were 1,218 murders in Mexico motivated by prejudice against individuals because of their real or perceived sexual orientation and/or gender identity, according to the report by the Citizens Commission Against Homophobic Hate Crimes (CCCOH) of the civil society organization Letra S, AIDS, Culture and Everyday Life AC. The report indicates that the largest number of such murders involved men (976), followed by transgender community members with 226 cases reported, and women (16). It also indicated that over 80% of the records show that the victims suffered various forms of aggression before being killed.\(^\text{374}\) The Commission notes that there have been some improvements in Mexico City in terms of discrimination against LGBTI persons, but as stated by one civil society representative, “Mexico City is not Mexico,” in reference to the deep-rooted stereotypes and prejudices that persist in many parts of the country.\(^\text{375}\)

263. Currently, according to an organization of transgender persons based in Europe, Mexico occupies the second place in the world, behind Brazil, as the country with the largest number of murders on account of gender identity or expression of gender.\(^\text{376}\) In its observations to the draft of this report, the State indicated that “at the federal level the PGR has clarified that its lacks specific statistics broken down regarding the LGBTTTTI population, since the bulk of incidents of violence against this sector of the population take place by means crimes contemplated under the local jurisdictions.”\(^\text{377}\) The State also indicated that the lines of action contemplated in the 2014-2018 National Program for Equality and Non-Discrimination regarding the fight against homophobia includes the creation of a

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\(^\text{373}\) IACHR, Registry Documenting Acts of Violence against LGBTI Persons in the Americas on Attacks on their Life and Integrity, December 17, 2014. The registry was compiled based on information obtained in the media and provided by civil society organizations.

\(^\text{374}\) Notiese, Registran 1218 homicidios por homofobia en Mexico, May 12, 2015.

\(^\text{375}\) Meeting with civil society organizations, Mexico City, Monday, September 28, 2015.

\(^\text{376}\) http://www.milenio.com/blogs/qrr/homofobia_7_300639934.html

national registry of crimes motivated by sexual orientation, gender identity or ethnic-national origin.378

264. In its observations to the draft of this report, the State stated that the Pew Research Center ranked Mexico, in June 2013, among the countries with a broad acceptance of homosexuality, recognizing that 61% of the people surveyed opined that homosexuality should be accepted by society. In addition, it stated that the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) ranked Mexico, in May 2014, “as a country with a normative framework that protects and guarantees the rights of the LGBTTI population.”

265. A global monitoring showed that in Mexico between January 1, 2008, and December 31, 2014, there were 194 murders of transgender persons.379 It is necessary to note that this organization indicates that among the six regions of the world, "the largest absolute numbers are in countries with strong trans or trans LGBT movements and organizations who undertake professional monitoring."380 The Commission also received information where the particular situations of exclusion and widespread discrimination in the lives of transgender women in Mexico (child violence in their families for expressing their identity, lack of access to education triggering high dropout rates, harassment and ridicule in public, working in informal economies, etc.) make them more vulnerable to attempts on their lives and physical integrity.381 Organizations denounced this year the murder on January 3, 2015, of Anahi, a transgender woman in Puebla.382

ii. Arbitrary Detentions, Torture and Cruel, Inhuman and Degrading Treatment

266. The Commission also received troubling information about groups who are particularly vulnerable to arbitrary detention, torture and other cruel, inhuman and degrading treatment by official State agents.383 Particularly, transgender women sex workers in Chihuahua are constantly harassed by police officers, on account of a legal requirement for sex workers to be registered by the Department of Health Regulation. Civil society organizations reported the arrest of six transgender sex workers who were forced to go to a detention center for an HIV test. When they refused, they were threatened publicly by judges, police agents and doctors; they were kept under observation; they were insulted on account of

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379 Trans-Respect v Trans-Phobia in the World, Transgender Europe: IDAHOT Nota de Prensa: May 8, 2015.
380 Trans-Respect v Trans-Phobia in the World, Transgender Europe: IDAHOT Nota de Prensa: May 8, 2015.
381 Frente Ciudadano Pro Derechos de Transexuales y Transgénero. Las mujeres trans: visibles para la violencia invisibles para el Estado Mexicano (undated).
382 Notiese, Pronunciamiento sobre crimen de odio por transfobia and acciones homófobas en contra del matrimonio entre personas del mismo sexo, January 13, 2015.
383 Indignation; Center for Women’s Human Rights; Letra S; Notiese; ACOMEDIS, A.C.; Diverse Families’ Mutual Support; VIHAS DE VIDA; SERES and Vaqueros Chihuahua. Report on Human Rights Breaches of Transgender Women Sex Workers in Chihuahua, Mexico, April 2014.
their sexual orientation and diverse gender identities.\textsuperscript{384} During the 156th Period of Sessions, the IACHR held a hearing on LGBTI persons deprived of liberty and for the prevention of torture. The Commission received specific information from an organization of Mexican civil society.\textsuperscript{385}

267. The Commission also received alarming information regarding impunity for attacks on the lives and physical integrity of LGBTI people in Mexico.\textsuperscript{386} Civil society organizations reported that classifying these investigations as ‘crimes of passion’ is a frequent practice. It was also reported that although some cases go to trial, they commonly remain unresolved and no one is accused.\textsuperscript{387} In its observations to the draft of this report, the State indicated that the lines of action contemplated in the 2014-2018 National Program for Equality and Non-Discrimination regarding the fight against homophobia include the generation of statistical information about crimes committed by security forces motivated by homophobia or racism and that, in June 2015, “the PGR adopted and published the Acting Protocol for the personnel of the PGR for cases that involve persons of the LGBTTTTI community.”\textsuperscript{388}

d. Children and Adolescents

268. Mexico has no official systematic data on the total number of children and adolescents who are the victims of violent deaths, nor about the victims of extrajudicial executions.\textsuperscript{389} On the other hand, many civil society actors allege that approximately 2,000 murders of children and adolescents occurred between 2006 and 2014,\textsuperscript{390} half of which took place in the course of alleged clashes involving the security forces.\textsuperscript{391} In a context of insecurity in Mexico and the so-called “war on drugs” against the drug cartels, it is common for children and adolescents to become victims of violence by organized crime, in clashes between organized crime gangs. Similarly, the high number of orphans resulting from the loss of one

\begin{footnotesize}
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\item \textsuperscript{384} Indignation; Center for Women’s Human Rights; Letra S; Notiese; ACOMEDIS, A.C.; Diverse Families’ Mutual Support; VIHAS DE VIDA; SERES and Vaqueros Chihuahua. Report on Human Rights Breaches of Transgender Women Sex Workers in Chihuahua, Mexico, April 2014.
\item \textsuperscript{385} Information presented by the organization Almas Cautivas.
\item \textsuperscript{386} Letra S, Aids, Cultura and Vida Cotidiana, A.C. Violations of Human Rights of Lesbians, Gays, Bisexuals and Transgender and Intersex Persons (LGBTI) in Mexico: Alternate Report, presented to the UN Human Rights Committee during the 111th Session, July 2014.
\item \textsuperscript{387} Letra S, Aids, Cultura and Vida Cotidiana, A.C. Violations of Human Rights of Lesbians, Gays, Bisexuals and Transgender and Intersex Persons (LGBTI) in Mexico: Alternate Report, presented to the UN Human Rights Committee during the 111th Session, July 2014.
\item \textsuperscript{388} Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.
\item \textsuperscript{389} IACHR, Rapporteurship on the Rights of Children Culminates Visit to Mexico, October 20, 2014. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/125.asp
\item \textsuperscript{390} IACHR, Rapporteurship on the Rights of Children Culminates Visit to Mexico, October 20, 2014. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/125.asp
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or both parents is cause for concern. In its observations to the draft of this report, the State indicated that according to the General Law on the Rights of Children and Adolescents, the National System of Integral Protection will include a System of National Information, which will have as its objective the compilation of broken down data to allow the monitoring of advances achieved in the fulfillment of the rights of children and adolescents in the country, including qualitative and quantitative indicators.

269. According to media, in 2012 372 children were murdered in Mexico State, which constituted “the highest number in the last 10 years.” In addition, a 270% increase in cases of rape perpetrated against children and adolescents was reported in that state, increasing from 213 to 789 reports per year.

270. In 2011, the Committee on the Rights of the Child urged the State to establish recruitment severance programs, and to adopt a system of information to ascertain precisely the impact on the victims. Progress was made on three protocols on organized crime scenarios as a guide for the authorities to undertake a differentiated approach when dealing with teenagers. However, according to civil society organizations, the State has not been using these protocols. For its part, the State reported to the Commission that, between January 1, 2014 and September 1, 2015, the Special Prosecutor for Crimes of Violence against Women and People Trafficking (FEVIMTRA) of the PGR recorded 387 preliminary investigations in which the victim was a minor, accounting for a total of 483 child victims.

271. According to the UN Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, when children or adolescents are “recruited by organized criminal groups, they (…) become potential targets of the inter-cartel violence and the ‘war on drugs’.” In such circumstances, “the authorities feel less compelled to conduct investigations and to hold accountable those responsible.” Impunity for these crimes is a central issue, as well as the problems of access to justice and the right
to reparations for the victims and their families. The escalation of violence, drug trafficking and repressive policies of the State have led to the deaths of a large number of children and adolescents. In this context, girls and adolescents are particularly affected by the gender-based violence, due to the number of cases of sexual violence, abductions and gender-based killings with adolescents as victims.\(^{399}\)

272. In addition, information received by the Rapporteurship on the Rights of Children indicates that in cases of children and adolescents in some type of detention or deprivation of liberty, disciplinary measures include bodily punishment and prolonged isolation.\(^{400}\) Similarly, there is no adequate regulation or supervision of institutions that provide alternative care to children, coupled with the lack of official figures regarding the number of institutionalized children, which exposes them to situations of violence, negligence, abuse and exploitation, as evidenced in the well-known cases known as “Casitas del Sur” and “La Gran Familia.”

273. In its observations to the draft of this report, the Mexican State indicated that during the installation of the National System for the Protection of Children and Adolescents, carried out on December 2, 2015, President Enrique Peña Nieto included among the priorities of the federal government, the state governments and the other branches of government, as of 2016, the formulation of a National Program for the Protection of Children and Adolescents, as well as forming a system of information at the national level, for the purpose of compiling broken-down data that allow the monitoring of advances achieved in the fulfillment of the rights of children and adolescents in the country. The State also stated that the Regulation of the General Law on the Rights of Children and Adolescents was published and that all 32 federal states have adopted uniform local legislation in accordance with the General Law.\(^{401}\)

e. **Migrants and Internal Forced Displacement**

274. In recent years, the Commission has monitored the serious situation and multiple human rights violations of migrant victims and other individuals in the context of human mobility in Mexico.\(^{402}\) This is reflected in the abuses and human rights violations suffered by migrants in transit through Mexico, such as assaults,

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400 In its observations to the draft of this report, the Mexican State indicated that article 150 of the General Law on the Rights of Children and Adolescents provides that federal laws and the laws of the states shall include measures so that those who deal with children and adolescents abstain from exercising any type of violence against them, particularly corporal punishment. In addition, article 57 and 58 list different measures to prevent mistreatment, prejudices, damage, aggression, abuse or any other form of violence against children and adolescents. Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.


402 *IACHR, Human Rights of Migrants and other persons in the context of Human Mobility in Mexico, OEA/Ser.L/V/II. Doc. 48/13, December 30, 2013.*
abductions, sexual violence, various forms of people trafficking, murders and disappearances. Most of these crimes are allegedly perpetrated by organized crime gangs, but there is also information on many cases involving the active participation of members of the National Migration Institute and of the police at the municipal, state and federal level.

275. Since its visit to the country in 2011, the Rapporteurship on Migrants was able to confirm, with concern, the seriousness of the human rights situation of migrants in Mexico. In April 2014, the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns stated that "The undocumented migrants who pass through Mexico put their lives in extreme danger, although it is difficult to obtain reliable figures on the number of migrants killed." A recent report by the Migrant Defender Organizations Network of Documentation (REDODEM), based on information collected in 2014, includes 31,894 persons registered and more than 40,000 incidents in its database, and indicates that the over 15 year-old irregular migrant population was the group which suffered more crimes on its way through Mexico (96%). The main crime committed against Central American migrants was robbery, followed by extortion and assaults. According to information collected by the REDODEM, organized crime was the main perpetrator of crimes at 54.27%, followed by individuals at 25.56% and government officials at 20.16%. Also, according to the information gathered, the main crime committed by Mexican authorities against migrants in transit was robbery, followed by extortion, illegal imprisonment and assaults.

276. The IACHR highlighted recently some of the challenges facing children and adolescents, most of them Mexican or Central American, who travel through Mexico in their journey to the United States. In particular, the Commission expressed its concern resulting from the reports of alleged practices by Mexican authorities along Mexico’s northern border of intercepting migrants and refugees, including children, before they reach the United States, followed by deportations by Mexican authorities of those migrants who are not Mexican.

277. According to information provided by the National Institute of Migration during the visit, "[as] from August 2014 initiatives of prevention, protection and prosecution of crimes affecting migrants were strengthened throughout the

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405 Redodem, Migrantes invisibles, violencia tangible, 2014.
406 Redodem, Migrantes invisibles, violencia tangible, 2014.
country and are now permanent. [...] The Ministry of the Navy and National Defense, the Federal Police, the National Migration Institute and State Police conducted permanent security operations along migrant routes, to deter and combat criminal acts against migrants in transit.”

278. The Commission notes that the implementation of the Southern Border Program has emphasized an approach to migration from the perspective of national security and control of migration flows, which has been reflected in increased operations detecting the situation of irregular migrants for subsequent deportation. According to information received by the Commission during the visit, as from the implementation of the Southern Border Program, some key measures adopted at the southern border of Mexico and along migratory routes across the country were: further militarization of the southern border by the armed forces, the redeployment of over 300 additional agents to southern Mexico, establishing more mobile checkpoints along the roads and railway tracks, as well as immigration checks in hotels and other dwellings accommodating migrants. Steps were also

409 Government of Mexico, National Institute of Migration, Avances sobre la situación de los derechos humanos de los migrantes en Mexico: Informe de la SEGOB and el INM en seguimiento al informe de la IACHR “Derechos humanos de los migrantes and otras personas en el contexto de la movilidad humana en Mexico”. September 30, 2015, p. 2. [Document on file with the Commission]. In its observations to the draft of this report, the State referred to a series of measures to ensure the human rights of migrants in transit, such as: the creation of a Single National Data System for the Search and Identification of Disappeared Migrants in the country; continuous professionalization of immigration agents; creation of a Guide of good practices for assistance and protection of migrants who are victims of kidnapping in Mexico; an institutional coordination perspective; recognition of the rights acquired by foreigners in their regularization process; Circular 1/2013, issued by the Supreme Court of Justice and the Federal Council of the Judicature on July 3, 2013, which contains the minimum standards in terms of judicial processes that involve migrants, with the aim of strengthening the right to consular assistance to foreign nationals who are facing criminal proceedings in Mexico so that the requirements for an adequate defense and due process are addressed; and the execution of programs for the strengthening of migrants in transit.

In addition, among the actions that have been undertaken to protect the rights of migrants in transit, the State has highlighted the following: the Migration Law, which lists for the first time the rights and services to which migrants have access; the Ministry of Health, through the Commission for Healthcare Attention to Migrants in the Southern Border, has carried out, among other activities, a Survey of Healthcare Attention Units belonging to the Ministry of Health of the state of Chiapas (applied in the 11 municipalities that make up the routes through which the migrant population travels), with the purpose of identifying the health service needs for the migrant population in transit and, this way, design strategies that allow to address the problems of access to medical attention; the Attention Protocol for Unaccompanied or Separated Migrant Children and Adolescents that are in Shelters, which has as its objective strengthening the proceedings at the modules and shelters so that they permanently conduct superior-interest-of-the-child evaluations for migrant children and adolescents and guarantee their rights; the Protocol for the Detection of Unaccompanied or Separated Migrant Children and Adolescents in Migratory Detention and who are in Need of International Protection; access to healthcare by migrants in accordance with article 42 of the Regulations of the General Health Law. Regarding the illegal trafficking in migrants, the State indicated that since April 2013, cooperation efforts were initiated between Central American countries and Mexico to prevent and fight against this crime. These efforts resulted in the International Conference on Illegal Trafficking of Migrants: Challenges and advances in the implementation of the Protocol against Illegal Trafficking of Migrants by Land, Sea and Air, which allowed the countries of the region to reflect on the challenges they face to prevent and fight against this crime. In February 2015, the Inter-Institutional Guidelines among government authorities, autonomous entities for the promotion and defense of human rights, and civil society organizations to address the crime of illegal trafficking of migrants and the detention of migrants for purposes of trafficking. Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.
taken to prohibit migrants from boarding trains (through the physical presence of agents around train stations, increasing the speed of the trains and increasing the physical barriers preventing migrants from climbing onto trains). The tightening of immigration verification operations by INM agents has also been evident at the official points of entry such as at Mexico City or Quintana Roo airports.

279. In addition to the above, the Commission has received information indicating that since the launch of the Southern Border Program, some authorities have tightened their policies against migrants and their defenders, such as: the alleged assaults on migrants and human rights defenders working in the “Home-Refuge for migrants The 72” in Tenosique, Tabasco, who have been the beneficiaries of precautionary measures requested by the Commission since 2013. The IACHR has also been informed that due to the increase in actions by Mexican migratory authorities under the Southern Border Program, some immigration operations take place near areas of humanitarian assistance to migrants, which does not reduce the flow of migrants but deters them from attending such centers. The Commission reiterates that an immigration policy that is based on a human rights approach and not one of national security must be comprehensive in scope, and "be specifically directed to prevent, protect and punish crimes and violations of human rights of migrant victims.”

280. In general, the responses have focused on the tightening of immigration policies; applying generalized and automatic detention, especially for individuals with irregular migrant status; the use of accelerated procedures for deportation; reduced access to international protection; and increased security at the southern border and on migration routes.

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410 See, various authors, Informe de actualización del estado que guarda el respeto and la promoción de los derechos humanos de las personas migrantes and refugiadas en Mexico: Visita in loco de la Comisión Interamericana de Derechos Humanos. September 2015, p. 15. This report was prepared by Sin Fronteras IAP, Colectivo Ustedes somos Nosotros, Servicio Jesuita a Migrantes Mexico, Casa del Migrante de Saltillo, Albergue de la 72, Centro de Derechos Humanos Fray Matías de Córdova, Grupo de Trabajo sobre Política Migratoria, Colectivo de Defensores/as de Migrantes and Refugiados (CODEMIRE), Colectivo de Migraciones para las Américas (COMPA). [Document on file with the Commission]. See also, IACHR, Hearing on human rights and interception eligible for international protection, October 22, 2015. Available at: https://www.youtube.com/watch?v=aoe3qH-oHd8

411 The Mexican Travel Agents Association (AMAV) calls the National Institute of Migration (INM) to improve the treatment with tourism in Cancún airport. http://www.delcamponoticias.com/benito-juarez-2/piden-mejor-trato-para-el-turismo-en-el-aeropuerto-de-cancun/


413 MC 273/11, Fray Tomás González Castillo, Rubén Figueroa, and staff of the Hogar-Refugio for migrants ‘La 72’ and others, Mexico, April 19, 2013.


416 In this sense, the IACHR has also criticized the policy and immigration control measures being promoted by the United States since mid 2014. The IACHR criticized the measures that the United States has been promoting outsourcing aimed at controlling its borders into other countries in the region, through actions...
The figures on the number of incidents of immigration detention and deportation show that the Southern Border Program has caused migrants to seek alternate routes – with more danger and vulnerability - but has proved ineffective at containing migration flows and protecting the human rights of migrants. The Commission expresses its deep concern that the actions implemented by the Mexican State under the Southern Border Program does not correspond with the State's international obligations on human rights nor with the protection challenges posed by this protracted crisis affecting hundreds of thousands of migrants, asylum-seekers and refugees, originating mostly from the Northern Triangle countries.

Moreover, during the visit, civil society organizations showed that despite the need for international protection for asylum seekers and refugees, lack of offices of the Mexican Commission for Aid to Refugees has a negative impact on due process and access to procedural mechanisms, both at the border and in other parts of the country. They also noted that in the context of access to a proceeding to determine their condition of refugees, immigration authorities did not always respect the principle of non-refoulement and they dissuade potential asylum seekers from seeking it. They also reported that cases of unjust unfair treatment and extortion by the INM and security authorities.

Regarding human trafficking, the Commissioner of the INM, Ardelio Vargas, in a meeting with the IACHR said that the Special Prosecutor for Crimes Against Immigrants in Chiapas constituted a good practice in the fight against impunity, by obtaining 59 convictions for the crime of human trafficking, as well as labor and sexual exploitation. The Commission is pleased to see the creation of the Special Prosecutor for Crimes of Violence against Women and Trafficking in Persons of the.

such as interdictions. In the second half of 2014, the main countries of origin and transit of these people started programs, supported by the United States to intercept then in their own territories before trying to migrate to the United States. In Honduras, these programs are known as Operation Rescue of Angeles and Coyote smugglers; in Guatemala, it was called the Safe Passage program; and in Mexico the Southern Border Program. In all three states, these programs have led to an increase in the securitization and militarization of border control operations with a significant participation of the joint military and police forces. See, IACHR, Refugees and Migrants in the US: Families and unaccompanied children. July 24, 2015, para. 113, quoting Jesuit Conference of the United States and Washington Office on Latin America (WOLA). US support and assistance for interdictions, interceptions, and border security measures in Mexico, Honduras and Guatemala undermine access to international protection, (October 2014), pp. 3-6.

The Commission also received information that upon entry into Mexico, once applicants are detected by the INM they are often put into immigration detention. They noted that the manner in which INM agents conduct the detention ignores the right to request and be granted asylum or to receive information. As a consequence, migrants desist from initiating the procedure for determining refugee status, given that, among others reasons, they are told they have little chance of being recognized as refugees or that they will have to remain in immigration detention for the entire duration of the process. Regarding the situation of Central American children and adolescents, they expressed concern that many are placed in immigration detention, in inhumane conditions. In many cases they lack in a number of cases legal representatives and guardians to ensure their rights. As a consequence, most of these children end up being promptly deported to their countries of origin despite their need for international protection. Asylum Access information supplied by Mexico to the delegation of the IACHR in Tenosique, Tabasco. September 29, 2015. See also, various authors Informe de actualización del estado que guarda el respeto and la promoción de los derechos humanos de las personas migrantes and refugiadas en Mexico: Visita in loco de la Comisión Interamericana de Derechos Humanas. September 2015, p. 19.

Intervention of INM Commissioner, Ardelio Vargas, in a meeting with the IACHR delegation in Tenosique, Tabasco. September 29, 2015.
PGR, whose existence is based on the need to address the crime of trafficking in Mexico in a timely manner. However, the Commission can only express its concern at information indicating that Central American migrants, especially women, are subjected to a pattern of discrimination and criminalization by the authorities of the Public Ministry of Chiapas when investigating the commission of crimes of people trafficking, taking advantage of the extreme vulnerability in which these individuals often find themselves.\textsuperscript{419}

284. The Commission recalls the obligation of States in the region, according to Inter-American standards, to investigate promptly impartially and thoroughly allegations of violence against all persons under their jurisdiction and prosecute, try, and punish, as appropriate, perpetrators respecting their right to due process and judicial guarantees.\textsuperscript{420}

\textbf{i. Internal Forced Displacement}

285. Another of the serious human rights violations caused by the various forms of violence taking place in Mexico in recent years concerns forced internal displacement. The Inter-American Commission found \textit{in situ} that the state of insecurity and violence affecting the country has a severe and disproportionate impact on internally displaced persons. As the Commission noted in its Report \textquote{Human rights of migrants and others in the context of human mobility in Mexico} in 2013, violence linked to organized crime has also led to thousands of people being forced to move internally within Mexico in recent years.\textsuperscript{421} Information provided to the Commission indicates that the displacements \textquote{happen silently, furtively, without requests for support from the authorities due to the mistrust and fear the authorities themselves might identify the victims to their aggressors.} \textsuperscript{422}

286. The witness evidence and abundant information received by the Commission during its visit, showed how violence has had a particularly severe impact in causing the forced displacement of groups such as indigenous peoples, human rights defenders and journalists.\textsuperscript{423} Additionally, the mega development projects are leading to the forced displacement of indigenous peoples and other communities in various parts of the country. The IDP Monitoring Centre (IDMC, in

\textsuperscript{419} Universidad Iberoamericana, \textit{Reflexión breve sobre la realidad social de Mexico and la situación de derechos humanos}. September 28, 2015, p. 7; and Centro de Dignificación Humana A.C., Luis Rey García Villagrán, Denia Elizabeth Santos, Santamaria Rosales, Elizabeth Jimenez Albores, \textit{Situación de la trata de personas en el estado de Chiapas}. October 2015. [Document on file with the IACHR].


\textsuperscript{422} Information received in the State of Guerrero by the Comité de Familiares and Amigos de Secuestrados, Desaparecidos and Asesinados en Guerrero, September 29, 2015.

\textsuperscript{423} BBC Mundo (Alberto Nájar), \textit{Rubén Espinosa: el drama de los periodistas mexicanos autoexiliados por la violencia}. August 5, 2015. Available at: http://www.bbc.com/mundo/noticias/2015/08/150804_periodistas–exiliados_mexico_violencia_an
English) has argued that the upsurge in criminal violence, in particular the activities of criminal groups and large-scale military operations to combat them, have been the main causes of displacement in Mexico. Other causes that are generating internal displacement in the countries of the region are linked to large scale development projects, commonly known as megaprojects, which are mainly affecting indigenous peoples, Afro-descendent communities and peasant/rural communities, as well as the displacement linked to the effects of climate change and natural disasters.

287. In the absence of official figures, IDMC statistics indicate that by the end of 2014, Mexico recorded levels of at least 281,400 internally displaced persons. Civil society organizations indicated that this figure could be much higher. The fact that the authorities do not recognize the existence of internal displacement, and that their numbers remained unquantified, has favored its invisibility.

288. Civil society told the Commission that internal displacement disproportionately affects the elderly, women, children and indigenous people particularly those with limited resources, who are in conditions of extreme vulnerability due to the lack of protection by State institutions, at all three levels of government. The organizations revealed the specific problems of displaced persons in access to housing, education and property rights, access to comprehensive health care, difficulties in obtaining employment, and to an overall involvement in economic, social and cultural rights experienced by displaced individuals and families.

289. The State has informed the Commission that it has implemented measures to address these victimized groups, in the context of its Program for the Prevention of Violence; it has also confirmed the need to guarantee the basic right to housing as a priority for children. However, the State has not provided the Commission with specific data regarding the situation of children and adolescents as a group that is specially affected within the victims of internal displacement, and about the concreted actions and measures to be taken to guarantee their rights.

290. The Commission has also learned of situations of forced internal displacement in Mexico through the adoption of precautionary measures urging the protection of groups of individuals who were forced to displace internally. The Commission

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429 See, IACHR, Precautionary Measure No. 60/12, Members of the Triqui de Valle del Río San Pedro, San Juan Cópala, Putla de Guerrero, Oaxaca Indigenous Communities, Mexico. May 29, 2012; Precautionary Measure No. 197/10, 135 Members of the Triqui de San Juan Copala, Oaxaca Indigenous People, Mexico. October 7,
notes that at the date of approval of this Report, the internal forced displacement has not been documented and analyzed comprehensively by the State, which is the main obstacle facing the comprehensive response that Mexico should give this phenomenon.

291. During its visit, the Commission received information from the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH), an organization that reported finding evidence of internal displacement in 14 of Mexico’s 32 states, with 141 events of mass displacement of 10 or more families, particularly in the period between January 2009 and February 2015. This massive displacement was concentrated in the states of Baja California, Chiapas, Chihuahua, Coahuila, Durango, Mexico State, Guerrero, Michoacán, Morelos, Nuevo León, Oaxaca, Sinaloa, Tamaulipas and Veracruz. Entities where the majority of cases were identified were Guerrero with 29 movements, Michoacán and Oaxaca with 20, Sinaloa with 17 and Tamaulipas and Chiapas with 14 episodes. In its observations on internal displacement, the CMDPDH has registered 5,908 new internal displacements as of October 2015.\textsuperscript{430}

292. The Commission notes that there are a number of state responses that have dealt with internal displacement in a fragmented manner. The Commission was also informed about the Project for Action for Indigenous Displaced Persons (PAID) of the National Commission for the Development of Indigenous Peoples (CDI), which aims to: "combine efforts with federal, state and municipal authorities in order to contribute to the relocation or return of the indigenous population displaced by violence, armed conflicts, violation of human rights, or religious, political, cultural or ethnic intolerance, by fully respecting their cultural diversity."\textsuperscript{431} Project guidelines point to the lack of specific legislation to recognize and characterize the population displaced by violence in Mexico, while acknowledging the existence of an indigenous population displaced as a result of the violence generated by armed conflicts, by problems of religious, political or cultural intolerance in Chiapas, Oaxaca, Guerrero, Jalisco and Hidalgo.\textsuperscript{432}

293. The Commission stresses the importance of enacting the Law for the Prevention and Monitoring of Internal Displacement in Chiapas, the Law on Preventing and Addressing Internal Displacement in the State of Guerrero, and the provisions of the General Victims Act which refers directly or indirectly to the phenomenon of

\textsuperscript{430} For events of Las Margaritas (Chiapas), Urique (Chihuahua), Las Negras (Durango), Sonoyta (Sonora), San Miguel Totolapan (Guerrero), Xalapa (Veracruz) and Tamazula (Durango), it is estimated that the total number displaced persons is 1,048. As for the displacement the Chinipas, the Juarez Valley, Urique (Chihuahua) and Iguala families, there is no number of family members per family available, and therefore the displacement of Tamazula, in which an average of 5 members per family is estimated with be taken as a reference. (Northwest, "Desplazan operativos a pobladores de Durango," October 11, 2015 Available at: http://www.noroeste.com.mx/publicaciones.php?id=1060396,) which produces a total number of 4,860 individuals.

\textsuperscript{431} Project for the Attention of Displaced Indigenous Peoples (Indígenas urbanos y migrantes desplazados. Available at: http://www.omi.gob.mx/en/OMI/Proyecto_para_la_atencion_a_indigenas_desplazados_Indigenas_urbanos_y_migrantes_desplazados

internal displacement. The latter Act creates the Executive Committee for Addressing Victims (CEAV) as the operational organ of the National System for Victims. The Commission notes that in July 2014, the CEAV approved, "[t]he Agreement acknowledges that the situation of focused internal displacement should be considered as an autonomous victimizing event that needs to be treated with a differential and specialized approach." Under this agreement, victims in this condition should be registered as direct victims of human rights violations (violation of the right of movement and residence, among others) in the National Register of Victims (RENAVI).

Despite this, the Commission received information that the denial of such recognition as victims of human rights violations in the CEAV constitutes the main obstacle to the attention of the victims of forced displacement. This is because RENAVI registration requires that victims have previously made complaints to federal ministerial agencies about the events leading to their displacement. Equally, the Commission notes with concern that faced with various situations compelling the internal displacement of persons, Mexico has not to date passed a law on internal displacement to incorporate the Guiding Principles on Internal Displacement within its legal system or to provide a federal level institution or focal point responsible for protecting IDPs.

The Inter-American Commission considers it important to note that, in accordance with the Guiding Principles on Internal Displacement, States have four main duties: (i) the obligation to prevent displacement; (ii) the obligation to protect IDPs during displacement; (iii) the obligation to provide and facilitate humanitarian assistance; and (iv) the obligation to facilitate return, resettlement and relocation of displaced persons.

The Commission reiterates its particular concern about the lack of meaningful official information on the extent reached by internal displacement in Mexico, as evidenced by the invisibility of the problem. Consequently, beyond the figures mentioned above, it is almost impossible to obtain a global figure on internal displacement generated by drug cartel violence and other causes in Mexico. The lack of data on the size and characteristics of internal displacement in Mexico requires that the State conduct a nationwide analysis to characterize displacement and to adopt the measures necessary to provide an effective response to this phenomenon.

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434 In Mexico there was an initiative to adopt a law on internal displacement in 1998, but it failed in the Senate.


5. **Situation of Individuals Deprived of their Liberty**

297. Based on the information received by the Commission through its various mechanisms, and from information gathered during an *in loco* visit, the Commission notes that another serious problem in Mexico is the arbitrary deprivation of liberty and the widespread use of torture and cruel, inhuman and degrading treatment of individuals just after their arrest and before being brought before the courts.

### a. Torture and Mistreatment in the Context of Detentions

298. Several civil society organizations point out that in the period 2004-2014, a total of 58,381 complaints of arbitrary detention were filed with the CNDH; of which about 17,000 also included allegations regarding torture and ill treatment. According to estimates of the Miguel Agustín Pro Juárez Human Rights Center (Centro Prodh), approximately 10,000 people are tortured in Mexico annually in the criminal justice system. The statistic was calculated by using as a starting point the figure of 2,000 people, which was announced by the Attorney General’s Office (PGR), for the federal criminal justice system, and then extrapolating that figure proportionately to the criminal justice system at the state level, in which five times as many people are processed. It was also indicated that this is a conservative estimate, since the number of complaints reflect that there is a greater proportion of torture cases at the state level than at the federal level.

299. For its part, the Commission notes that the UN Special Rapporteur on torture concluded in his report issued on December 19, 2014, after a visit to Mexico, that torture and ill-treatment are "widespread" and that the Subcommittee on Prevention of Torture found that during the first hours of detention, the detainees "are at high risk of torture and cruel, inhuman and degrading treatment."

300. Torture and ill treatment usually have the aim of extracting confessions, gaining incriminating information, and to punish the victim. In particular, during its *in loco* visit, the Commission received troubling information that arbitrary arrests are used as a tool across the country to silence dissenting voices, social and student.
In relation to methods of torture, the Commission has received information indicating that the most common are fist beatings, kicking with boots, batons and gun butt blows on various parts of the body; insults, threats and humiliation; electric shocks mainly to the genitals; forcing others to witness and/or listen to the torture; wet and dry choking; forced nudity, and sexual torture.\textsuperscript{442}

301. The Commission has also received information about many cases of Central American migrants detained in prison, who are incriminated through confessions obtained under torture by military and police authorities. In the case of the detention of women, the Commission learned that incidents of gender-based violence are widespread, such as sexual violence as torture, humiliation, inappropriate monitoring when bathing or undressing, forced nudity and rape. Specifically, various civil society organizations have pointed out that even after denouncing these problems themselves, and the issue being addressed by international organs, State prosecutors do not have differentiated data revealing the number of complaints of torture against women, or have no records of such complaints.\textsuperscript{443}

302. On this issue, the UN Rapporteur on Torture noted that most cases on the use of sexual violence as a form of torture have not been investigated or punished, or have been classified as less serious behavior; in addition, that victims are often re-victimized after presenting their complaints or when undergoing medical examinations\textsuperscript{444}. Considering the above, the Commission urges the State to adopt measures to precisely address these issues, with differentiated and updated information; and that the State implement gender-sensitive policies aimed at the prevention, punishment and eradication of this practice.

### i. Codification

303. In recent years, both UN agencies and various civil society organizations have expressed concern about the Mexican legislation’s lack of alignment with international standards in the criminalization of torture. In particular, the UN
Special Rapporteur on Torture noted that the definition of this crime at the federal level is incompatible with the Convention against torture and other cruel, inhuman or degrading punishment. Specifically, the Federal Law to Prevent and Punish Torture does not refer to torture committed with discriminatory purposes or "with any other purpose", and when an individual commits the crime, the law requires that the tortured person be in detention. As for classification among the federated states, the Rapporteur noted that most of the definitions do not meet international standards either, and thus "should also be amended to reflect the definition, penalties and guarantees required by international standards." 

304. According to information provided by the State, in 17 federated states, torture is criminalized in the state penal codes, and another 15 have a special law on the subject. According to the Mexican State, the executive branch is currently working in an interagency group on a preliminary draft General Law on Torture and other Cruel, Inhuman and Degrading Treatment in order to harmonize the criminal offenses of torture at the national level. In this sense, the Commission urges the Mexican government to formulate, as soon as possible with civil society and experts in the subject, a general legislation meeting international standards in this area.

ii. Investigation and Punishment of Torture and Mistreatment

305. As mentioned above, according to official figures, the Attorney General’s Office has more than 2,400 pending investigations on torture, representing complaints filed in the period from 2010 to 2015 at the federal level. However, in contrast to the number of complaints, in Mexico there have only been 15 convictions for torture at the federal level from cases initiated between 2003 and 2013. Of these 15, nine were issued between 2012 and 2015. The Commission has no information to indicate whether these sentences have been upheld, nor about the penalties imposed or reparations given. Moreover, the NCHR has a record of complaints of torture and ill treatment between January 2012 and January 2015 amounting to 2,904 acts denounced as torture and 6,811 acts denounced as cruel, inhuman and degrading punishment. In response, the National Human Rights Commission has

447 The federated states criminalizing torture in their Criminal Codes are the following: Baja California, Baja California Sur, Campeche, Distrito Federal, Durango, Guanajuato, Hidalgo, Jalisco, Michoacán, Nuevo León, Puebla, Querétaro, San Luis Potosí, Sinaloa, Tabasco, Tamaulipas, Zacatecas. Information of the State of Mexico, Visit to the IACHR, September 25, 2015, pp. 30-31.
448 Information of the State of Mexico, Visit to the IACHR, September 25, 2015, pp. 30-31.
449 Information of the State of Mexico, Visit to the IACHR, September 25, 2015, p. 28.
450 Information of the State of Mexico, Visit to the IACHR, September 25, 2015, p. 13.
451 Information of the State of Mexico, Visit to the IACHR, September 25, 2015, pp. 15-17.
452 State of Mexico. Information presented during the in loco visit, September 25, 2015.
453 National Human Rights Commission, Information received during the in loco visit.
issued 256 recommendations regarding torture and 442 recommendations for cruel, inhuman or degrading treatment.

306. From information received by the Commission, it is evident that allegations of torture and ill treatment usually go unpunished, and the State's willingness to investigate and punish the authorities responsible for committing these acts is not apparent. This is clearly reflected in the mismatch between the number of investigations and (mainly) the sentences in relation to the widespread situation faced by the Mexican state. The Commission also notes that UN agencies and civil society organizations, both national and international, have expressed concern about the lack of investigation of these crimes.454

307. Moreover, although the number of reported cases of torture and ill treatment is a concern, the Commission acknowledges that it does not reflect the real problems. This is mainly due to the lack of complaints for fear of reprisals or mistrust of the authorities, to the tendency to classify these acts as less serious offenses, and to the difficulty in obtaining data principally due to the absence of a national registry of cases of torture. In this regard, the Commission is concerned about the classification of cases of torture or ill treatment as minor offenses such as "assault" or "minor injuries", a question on which UN bodies have commented. In particular, the UN Special Rapporteur on Torture has referred to the existence of "a tendency to describe acts of torture or ill-treatment as less serious offenses"; and the Committee against Torture has expressed concern over the dismissal of allegations of torture or classification of the facts as lesser crimes, by Public Prosecutors and by judges themselves.455

308. One of the irregularities often mentioned that has a direct impact on the investigation was the inadequate implementation of the Istanbul Protocol in Mexico. This implementation is mainly based on a procedure established in the Agreement A/057/2003 of the PGR, that according to the State "establishes institutional guidelines to be [...] followed by [the] staff of the Attorney General’s Office, for the application of the Medical/Psychological Evaluation for Cases of Possible Torture and/or Mistreatment [...] and broadly corresponds to

454 UN, Report of the Special Rapporteur on Torture, Juan E. Méndez, Mission to Mexico, A/HRC/28/68/Add.3, December 29, 2014, paras. 32 and 78; UN, Committee against Torture, Final Observations on the Fifth and Sixth Periodic Reports of Mexico, 49th Period of Sessions, October 29, to November 23, 2012, para. 16. See also: CMDPDH, Violaciones graves a derechos humanos en la Guerra contra las Drogas en Mexico, 2015; Amnesty International (Mexico), Fuera de control. Tortura and otros malos tratos en Mexico, 2014; ASILEGAL, Report on the Situation of Persons Deprived of their Liberty, Visit to Mexico of the UN Special Rapporteur on Torture, 2014; Human Rights Center of the Free Law Faculty of Monterrey, Informe sobre la Situación de la Tortura y otros Tratos o Penas Crueles, Inhumanos o Degradantes en Nuevo León, Mexico, 2014; Human Rights Watch, Neither Rights nor Security: Killings, Torture, and Disappearances in Mexico’s “War on Drugs”, 2011,


international standards." 457 Regarding the application of this protocol, the Commission has received information indicating that the application is inadequate, incomplete, late and performed by untrained personnel.

309. According to information referred to the Commission by civil society organizations, the following issues are present: a) most expert reports carried out by forensic experts have a negative result; b) the PGR does not believe that independent opinions or even those of human rights commissions have the validity of the opinions favored by this entity, and c) the authorities obstructing the entry of human rights experts applying the Istanbul Protocol. This, coupled with the lack of follow-up ex officio on the allegations of torture in initial statements prevents the Public Prosecutors from having the elements necessary to assess allegations of torture and initiate the appropriate investigations. For its part, the UN Special Rapporteur on Torture has also referred to "significant deficiencies" in the implementation of the Protocol, both regarding the practice of medical examinations, and in the interpretation and use of their results, leading to a legitimizing of inadequate investigations relating to abuse and torture.458

310. In this regard, the State indicated that Agreement A/057/2003 is currently being reviewed in order to "bring it into line with the norms on amparo, human rights and the adversarial criminal justice system." 459 In particular, the State highlighted the participation of the Deputy Attorney General’s Office of Human Rights, Crime Prevention and Community Services in the draft update of the Agreement, "in order to strengthen the current legal framework, to ensure the investigation of such conduct, including issuing expert opinions of independent institutions following the guidelines established in the Istanbul Protocol and that these are part of the evidence in the investigation of possible torture cases." 460 In this regard, the Commission considers that this review process provides an opportunity for the State to ensure that evaluations meet the standards referred to in the Istanbul Protocol regarding the independence and impartiality with which an investigation should be conducted, and an opportunity to remove the obstacles preventing qualified independent experts from implementing the Protocol, and that their opinions are considered with due evidentiary value to avoid revictimization.

311. The Commission welcomes recent jurisprudential advances in this field. In 2013, the Supreme Court of Justice established the inadmissibility of evidence obtained on the basis of an illegal arrest in violation of the fundamental rights such as due process.461 A year later, the court established the obligation of judges to open two separate investigations for a complaint of torture, in order to investigate these allegations and to determine the need to exclude evidence, in order to avoid

459 Information of the State of Mexico, Visit to the IACHR, September 25, 2015, p. 14.
460 Information of the State of Mexico, Visit to the IACHR, September 25, 2015, p. 16.
delaying admissibility until sentence and separating the exclusion of evidence from the results of the investigation.\footnote{SCJN, \textit{Amparo Directo} in revision 90/2014. Judgment of April 2, 2014. Judge Rapporteur: Minister Jorge Mario Pardo Rebollo.} This decision also highlights that the Supreme Court has referred to the State's duty to "ensure the independence of medical and health staff charged with examining and assisting detainees, so that they can freely perform the necessary medical evaluations."\footnote{SCJN, \textit{Amparo Directo} in revision 90/2014. Judgment of April 2, 2014. Judge Rapporteur: Minister Jorge Mario Pardo Rebollo. Also, the IACHR appreciates that in April 2015, in the case Alfonso Martin del Campo Dodd, the Supreme Court ordered the immediate release of Mr. del Campo Dodd, charged with the murder of his sister and brother in 1992 and sentenced to 50 years imprisonment. The Supreme Court found that Mr. Alfonso Martin del Campo Dodd was tortured to extract a confession of murder, which violated his rights, as the IACHR established in its report in 2009. IACHR, Report No. 117/09, case 12.228, Merits, \textit{Alfonso Martin del Campo Dodd}, Mexico, November 12, 2009.} 

312. The Commission also notes the recent establishment of a Special Torture Crime Unit of the PGR.\footnote{SEGOB, Official Gazette of the Federation. Agreement A/101/15 creating the Specialized Unit on the Investigation of Torture, and establishing its powers. DOF, October 27, 2015.} According to the agreement establishing this unit, it is to have the competence to direct, coordinate and supervise investigations regarding the crime of torture in the case of acts attributable to public servants who are members of other departments of the Federal Government, or of other Federation Powers, or even of any other autonomous body in accordance with the provisions of the Federal Law to Prevent and Punish Torture and other provisions applicable in this area.

b. \textbf{Arbitrary Deprivation of Liberty: Restriction Orders, Excessive use of Preventive Detention and Quasi Flagrante Delicto}

313. In accordance with the 2008 constitutional reform in the area of criminal justice and security, the practice of detention without a judicial order, known as "arraigo," was elevated to constitutional level. Under the Mexican Constitution, the judicial authorities may issue a restriction order against a individual for offenses of organized crime, for a period of 40 days, extendable up to 80 days, "whenever necessary for a successful investigation, the protection of persons or legal rights, or when there is a well-founded risk that the accused may escape from the administration of justice."\footnote{Article 16 of the Mexican Constitution.} In its observations to the draft of this report, the State maintained that article 20 of the Mexican Constitution prohibits all kinds of incommunication, intimidation or torture, and establishes the obligation to notify the accused the fact attributed to them and the rights that protect them, guaranteeing the right to an adequate defense, among other guarantees. Additionally, it indicated that the Constitution contemplates the “control judge” as an independent and specialized federal judicial authority in charge of resolving immediately the requests for an \textit{arraigo}. Among the functions of “control judges” are ensuring that there is not violation to the rights of the accused, the victims, or


463 SCJN, \textit{Amparo Directo} in revision 90/2014. Judgment of April 2, 2014. Judge Rapporteur: Minister Jorge Mario Pardo Rebollo. Also, the IACHR appreciates that in April 2015, in the case Alfonso Martin del Campo Dodd, the Supreme Court ordered the immediate release of Mr. del Campo Dodd, charged with the murder of his sister and brother in 1992 and sentenced to 50 years imprisonment. The Supreme Court found that Mr. Alfonso Martin del Campo Dodd was tortured to extract a confession of murder, which violated his rights, as the IACHR established in its report in 2009. IACHR, Report No. 117/09, case 12.228, Merits, \textit{Alfonso Martin del Campo Dodd}, Mexico, November 12, 2009.


465 Article 16 of the Mexican Constitution.
any other aggrieved party in the proceeding, as well as verifying the legality of the actions of all parties that intervene in the proceeding. 466

314. The Commission has previously expressed concern about the existence of the *arraigo*, and has urged the State to abolish it from its domestic legal framework. 467 In recent years, the Commission has received numerous complaints regarding the use of restriction orders to detain suspects in private homes, hotels and military installations, without respect for due process rights, and making it more likely that persons deprived of their liberty face the risk of being subjected to ill-treatment and even torture. 468 The Commission also notes that various United Nations bodies and civil society organizations, both national and international, have pointed out that a restriction order encourages the use of detention as a means of investigation which violates rights such as personal liberty and personal guarantees, as well as creating a climate in which the detainees are at risk of being subjected to ill-treatment and torture. Consequently, the UN Special Rapporteur on Torture, the Committee against Torture, the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the independence of judges and lawyers have asked the Mexican state to abolish it. 469

315. The Commission welcomes the fact that the federated states of Chiapas, Oaxaca and Yucatan have abolished the *arraigo*.

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467 IACHR, Press Communiqué No. 105/11, IACHR concludes a visit to Mexico, September 30, 2015.


316. The Mexican State has reported a significant reduction in the application of restriction orders in practice. According to figures from the Attorney General's Office, in 2012 there were 1,287 individuals under restriction orders at the federal level; in 2013 that number was 630; in 2014, 286 were recorded to be subject to restriction orders, and between January and August 2015, that number was 81 individuals. The Commission also notes judgments of the Supreme Court indicating that the federated states have no constitutional powers to legislate or implement restriction orders, since following the 2008 constitutional reform, this measure is only applicable in cases of organized crime and that this matter is exclusively reserved to the competence of the Federation. In its observations to the draft of this report, the State stated that with the entry into force of the National Code of Criminal Procedure in the states where the new criminal justice system is already in place, the figure of arraigo will no longer be applicable at the state level.

317. In this regard, the Commission welcomes the reduction in the use of this measure and the jurisprudence limiting it. However, it expresses concern about the existence of the restriction order at the constitutional level, whose existing validity in itself is contrary to the American Convention, because it has severe consequences for the enjoyment of the rights of persons subject to this form of detention. Notwithstanding the progress towards reducing the application of restriction orders, the Commission reiterates its call on the Mexican State to abolish the restriction order completely from its legal system.

318. The application of pretrial detention is based on Article 19 of the Constitution. This provides that such detention may be requested by the Public Ministry, whenever other precautionary measures are insufficient to ensure the appearance of the accused at trial, the development of the investigation, the protection of victims, witnesses or the community, and when the accused is being tried or has previously been convicted of intentionally committing an offense. This provision also establishes offenses that warrant preventive detention ex officio during the course of the trial. Pretrial detention "may not exceed the maximum time penalty
prescribed by law for the crime under trial, and in no case should it exceed two years, unless the extension is due to the exercise of the accused’s right of defense”.475

319. According to figures from the Ministry of the Interior, for August 2015, of the 254,469 people detained in Mexican detention centers,476 107,441 remain in pretrial detention, i.e. 42% of the country’s prison population.477 In particular, of the 13,498 women prisoners, 52.94% are subject to this procedure, i.e. 7,146. Meanwhile, 100,295 male detainees are in pretrial detention, which represents 41.61% of the total population.478

320. The Commission notes that the excessive use of pretrial detention in Mexico is reflected in the number of detainees who are being tried. The Commission has also received information from civil society organizations that indicates a failure to implement alternative measures to detention, associated both with judicial practices and the regulatory framework. As the Commission noted above, the widespread use of pretrial detention involves real consequences not only for individuals, but represents a significant financial burden for the State, and causes other problems such as overcrowding and a lack of segregation between prosecuted and convicted inmates.479

321. In addition, during the in loco visit and during the visit made by the Rapporteurship on the Rights of persons Deprived of Liberty in September 2015, the Commission received information about cases where people remain in prison without trial, for longer than the time referred to in the Constitution. In particular, during a September 2015 visit to centers conducted by the Rapporteur on the Rights of Persons Deprived of Liberty, statements were received from individuals whose cases have far exceeded the constitutional limit of two years for the application of pretrial detention. The Rapporteur also observed in the detention centers visited,480 that prosecuted and convicted inmates share the same cells and mix together in the same communal areas.481
322. According to the Mexican Constitution, an individual may be arrested without a prior judicial order if the individual is apprehended at the time of the commission of an offense or “immediately after having committed it”. This latter assumption is known as “quasi flagrante delicto (flagrancia equiparada).”\(^{482}\) The Commission has expressed its concern over the application of the concept of quasi flagrante delicto, particularly as reported by the UN Subcommittee on Prevention of Torture about its use to justify mass arrests of individuals, who in reality were not arrested \textit{in flagrante} and had no connection or objects relating to the events at stake.\(^{483}\) The Commission considers that the concept of \textit{quasi flagrante delicto} grants excessive leeway to the State regarding detention of suspects of potential suspects, and jeopardizes respect for due process in criminal matters contrary to international human rights standards on the subject.

323. For their part, both civil society organizations and UN agencies have spoken out about the "excessive" interpretation given to this provision in practice.\(^{484}\) In relation to the use of this measure, the UN Subcommittee on Prevention of Torture said it is "excessive in terms of duration and is incompatible with the principle of the presumption of innocence and the legal requirement of lawful arrest by court order."\(^{485}\) For its part, the UN Special Rapporteur observed a "loose and undue use" of the concept of flagrancy, and determined that the existence of this measure encourages "a tendency to detain to investigate, rather than to investigate to detain."\(^{486}\) Therefore, the Commission urges the Mexican government to correct the excessive use of preventive detention, limiting it to exceptional circumstances, by making use of other precautionary measures not involving the deprivation of liberty. In this context, it recommends that the State guarantee that detainees are immediately brought before a judge, to restrict the use of warrantless detentions in cases of alleged quasi flagrante delicto.

\^482\ Political Constitution of the United Mexican States, Article 16 (“Any person may detain the accused at the moment in which he is committing a crime or immediately after having committed it, presenting him without delay before the closest authority, and this authority shall present him with the same celerity before a Public Prosecutor. There shall be an immediate registration of the detention.”).


c. Detention Conditions

i. General Considerations

324. The Commission, through its Rapporteur on the Rights of Persons Deprived of Liberty visited Mexico from September 17 to 19, 2014 and between September 22 and 24, 2015, with the aim of obtaining information on the status of the Mexican prison system and of identifying the major deficiencies facing it. During his last visit, the Special Rapporteur visited the Federal Social Rehabilitation Center No. 1 "Altiplano" (CEFERESO No. 1) and the Santa Martha Women's Center for Social Rehabilitation, the Men's Preventive Detention Center “Oriente” and the Men's Criminal Sanctions Enforcement Center “Oriente”. Meetings with civil society were also held. In September 2014, the Rapporteur met with various authorities, and also with civil society. The Commission thanks the Mexican Government for the cooperation provided to allow these visits and appreciates the commitment of the authorities to receive the Special Rapporteur for continued monitoring of the conditions of detention for persons deprived of liberty in other regions of Mexico.

325. Mexico has a total of 388 detention centers: 17 federal centers; 12 in the Federal District; 285 dependent on state governments; and 74 municipal ones. According to official figures, Mexico has a total prison population of 254,469 persons deprived of their liberty, of which 205,644 are subject to local (state) jurisdiction (80.81%) and 48,825 to the federal jurisdiction (19.19%). The female prison population is 5.20% of the total number of detainees. As noted above, approximately 42.22% of persons deprived of their liberty are held in pretrial detention. The administration of the penitentiary system depends on the National Security Commission through the Decentralized Administrative Organ for Prevention and Rehabilitation. The Secretariats for Public Security are in charge of prison administration at the state level.

326. In its observations to the draft of this report, the State referred to the creation of the National Conference of the Penitentiary System, which has as its objective to facilitate cooperation among penitentiary systems, with other public and private institutions, and serves as an entity of analysis, dissemination and instrumentation of public policy in penitentiary matters. Among the various technical committees of the National Conference, the State highlighted the committee to “Fight Against Corruption,” “Penitentiary Overcrowding and Recidivism,” “Respect for the Human Rights of Inmates,” “Gender Equality and Women Inmates,” among others. The State also reported that between 2012 and 2015, it increased the installed

489 SEGOB, National Security Commission Administrative Body Prevention and Social Rehabilitation, Monthly Booklet on Statistical Detention Information, August 2015.
490 SEGOB, National Security Commission Administrative Body Prevention and Social Rehabilitation, Monthly Booklet on Statistical Detention Information, August 2015.
capacity of federal penitentiaries by more than 22%, and nine Federal Centers of Social Readaptation are under construction. 491

327. The Commission notes that in addition to the implications that led to the 2008 constitutional reform in the area of security and justice, analyzed in Chapter III of this report, the reform also meant a transformation of the Mexican prison system, with respect for human rights and social reintegration of persons deprived of their liberty as guiding principles. In this regard, in accordance with Article 18 of the Mexican Constitution, the prison system is organized "on the basis of respect for human rights, labor [,] education, health and sport as a means to achieve the reintegration of the inmate back into society." 492 In order to introduce an approach of social reintegration, through the 2008 amendment of Article 21 of the Constitution, the judicial imposition of penalties was contemplated by establishing that "the imposition of penalties, their modification and duration depend exclusively on the judicial authority." 493

328. In this context, on October 8, 2013, Article 73 was amended in order to establish the power of Congress to issue legislation governing the enforcement of penalties in the Republic at the federal level and in the ordinary jurisdiction, and its entry into force would override state legislation on the subject. 494 After two years of discussion, the draft National Criminal Enforcement Act is currently in its last revision stage in the Justice Committee of the Senate. Concerning the draft in question, civil society organizations have identified some shortcomings such as: the lack of protection for persons held in preventive detention in view of the fact that the proposed legislation only protects sentenced individuals; the tightening of conditions for the benefit of early release; the provision of security measures for people with mental and intellectual disabilities; 495 and subjecting civil society independent monitoring to the discretion of the prison authorities. In this regard, the IACHR urges the State to adapt this draft legislation to international standards in the area to ensure the rights of persons deprived of their liberty, both during trial and after sentencing, with emphasis on criminal due process and social reintegration.

ii. Main Areas of Concern

329. According to the information collected and received by the Commission in recent years through its various mechanisms, the resolution of issues present at Mexican detention centers depend in important part on the different levels of government

492 Political Constitution of the United Mexican States, Article 18.
494 Political Constitution of the United Mexican States, Article 71, section XXI, indent c).
495 On this point, during the meeting with civil society on September 22, 2015, the Documenta organization reported that the implementation of security measures for people with disabilities involves the restriction of the rights and guarantees of due process, since it subjects individuals to indefinite forced medical treatment. This implies that the person is convicted of his disability and not for criminal behavior.
to which they belong. However, the Commission notes that federal and state detention centers suffer from common structural patterns such as overcrowding, corruption and uncontrolled self-government in aspects such as security and access to basic services, violence between inmates, lack of medical attention, a lack of real opportunities for social reintegration, a lack of differentiated attention for groups of special concern, abuse by prison staff, and lack of effective grievance mechanisms.

330. Regarding the State detention centers, the information available to the Commission indicates that, in addition to the main problem of overcrowding, they also suffer from more serious and precarious conditions due to the federated states’ lack of financial resources. According to information gathered by this Commission, federal detention centers could have better physical condition and control, but also an environment of extreme repression. In this sense, they are characterized by the use of prolonged isolation regimes (up to 22 and sometimes 23 hours a day), restrictions of communication between inmates and serious difficulties with outside contact.

331. Moreover, a recurrent concern informed by civil society is the excessive use of penalties involving privation of liberty.\(^{496}\) In this regard, the NCHR has stated that precisely the "disproportionate" use of penalties involving the privation of liberty is a major cause of overcrowding in detention centers in Mexico,\(^{497}\) and that despite efforts by the authorities to provide more facilities for the penitentiary system, the results have not matched expectations "which shows that overcoming this phenomenon requires comprehensive programs beyond building more prisons."\(^{498}\)

**Overcrowding**

332. The Commission has been informed that overcrowding is one of the major problems encountered in most Mexican detention centers. According to information received by the Commission, overcrowding has resulted in the increase of uncontrolled self-government due to the lack of supervision by the penitentiary authorities, corruption and violence in recent years.\(^{499}\) For its part, the NCHR stated in its 2015 report on "Overcrowding in Mexico’s Detention Centers"\(^{500}\) that overcrowding is one of the major human rights violations in detention centers in Mexico. The CDHDF has also presented information to the Commission on this issue.\(^{501}\)

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\(^{496}\) CNDH, *La Sobrepoblación en los Centros Penitenciarios de la República Mexicana*, 2015, p. 75.

\(^{497}\) CNDH, *La Sobrepoblación en los Centros Penitenciarios de la República Mexicana*, 2015, p. 3.

\(^{498}\) CNDH, *La Sobrepoblación en los Centros Penitenciarios de la República Mexicana*, 2015, p. 3.

\(^{499}\) Information referred to the Commission during the hearing before the IACHR "Challenges on the Implementation of the Criminal Justice System in Mexico", 150th Period of Ordinary Sessions, March 27, 2014.

\(^{500}\) CNDH, *La Sobrepoblación en los Centros Penitenciarios de la República Mexicana*, 2015, p. 3.

\(^{501}\) Information of the CDHDF for the IACHR, during its *in loco* Mission to Mexico, received on October 1, 2015, p. 7.
333. According to official figures, the total accommodation capacity of the Mexican prison system is 203,096 places.\(^{502}\) Whereas currently the total prison population amounts to 254,469 persons deprived of their liberty,\(^ {503}\) there is a deficit of 51,353 places; that is, and there is a general level of overcrowding of 25.5% over its accommodation capacity. Of the country’s 388 prisons, 200 are overcrowded\(^ {504}\) which shows that the actual distribution of overcrowding is not uniform, and therefore, various centers face a more serious problem. This is reflected, for example, in the Men’s Preventive Detention Center “Oriente” with a population of 12,883 inmates as at September 22, 2015, despite the fact that it only had capacity for 5,604 inmates, thus exceeding its capacity by 229%. On this issue, the UN Rapporteur on Torture stated that these figures, while a matter of concern, do not reflect the "real overcrowding" given that "capacity is measured in terms of available beds and not in terms of the space of about 18 m [...] which each detainee must be provided with in accordance with accepted standards."\(^ {505}\)

**Corruption and Uncontrolled Self-Government**

334. The Commission has been informed that there are strong regimes of corruption in the Mexican prison system. In particular, civil society organizations and inmate’s relatives have indicated that the persons deprived of their liberty are subject to improper payments by prison staff so that they are provided with services and basic goods, such as food, water and health. They are also required to pay a regular fee in order to avoid being beaten and abused in detention centers. For its part, the CDHDF reported that the main source of complaints received are connected with persons deprived of their liberty,\(^ {506}\) in particular, the "arbitrary" fee collection by the authorities, so that persons deprived of their liberty can receive health care.\(^ {507}\) According to a 2014 study by the Center for Economic Research and Teaching (CIDE), in the Federal District prisons the collection of improper fees doubled over the decade 2002 to 2013.\(^ {508}\)

335. According to experts in the field, these high levels of corruption largely occur because of a lack of sufficient prison staff, the very precarious working conditions, and the lack of basic equipment to perform their functions. Civil society organizations, for their part, informed the Commission that although they publicly denounced serious acts of corruption by prison officials, the corresponding

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\(^{506}\) Information received during the visit of the Special Rapporteur on the Rights of Persons Deprived of their Liberty, September 2014.

\(^{507}\) Information of the CDHDF for the IACHR, during its *in loco* Mission to Mexico, received on October 1, 2015, p. 4.

\(^{508}\) Centro de Investigación y Docencia Económicas (CIDE), *Delito and Cárcel en México, deterioro social and desempeño institucional*. Mexico, August 2014.
criminal investigations have not been carried out with due diligence, and impunity still prevails.

336. Another aspect that the Commission has learned about is the absolute control exercised by the inmates themselves in some detention centers. According to civil society organizations, this is the case in the North of the country where there is a strong presence of organized crime. In particular, they have highlighted the complexity of the situation in detention centers such as Topo Chico, in the state of Nuevo Leon, where the inmates themselves have allegedly beaten and even killed those refusing pay for extortions. They also prevent family members from providing basic necessities to inmates since, allegedly, a private firm sells these kinds of articles inside the facility at exorbitant prices.\textsuperscript{509}

**Imposition of Disciplinary Sanctions**

337. Considering its observations during the 2015 *in loco* visit and the information received more recently, the Commission notes that the application of disciplinary sanctions is disproportionate to the violation being sanctioned, and frequently imposed according to discretionary criteria by the prison staff. Also, the sanctioned inmates lack independent and effective mechanisms to challenge the sanctions. The Commission notes that one of the most common punishments is the imposition of solitary confinement in small cells and in deplorable conditions, for excessively long periods—even months—and restrictions on family visits and phone calls.

338. In particular, in the Santa Martha Women’s Center for Social Readaptation, the Commission noted the deplorable conditions of the punishment cells, and verified the prolonged application of such sanctions. In this regard, one of the inmates revealed that she had been held for three months in punishment cells for discussing with a security chief; the length of the punishment was confirmed by the authorities, who stated that it was the result of repeated infractions committed by the person being punished. The inmate stated "they took me for arguing with a security chief, for demanding my rights. They left me without calls. The guards hurt my hands. They have not provided attention for my hand. I do not trust the authorities."

339. In one of the cells where three inmates were subjected to solitary confinement, the Commission observed deplorable conditions in terms of cleanliness: in particular, the toilet was dirty, the cell was littered with garbage, rotten food, paper, and even a used sanitary pad was observed. One of these inmates, who allegedly had been punished for four days, stated: "since we arrived on Saturday, they have not let us take the trash out. They have not allowed access to our things; we have no toothbrushes. I have been menstruating since Saturday and they have only provided two sanitary pads." Another inmate stated that during the first days of

\textsuperscript{509} In this regard, the UN Special Rapporteur for Torture stated that he received generalized complaints regarding the scarcity and poor quality of food, which is a situation that is exacerbated by the prohibition on receiving food from family members.
the three months in solitary confinement she had been denied elements for personal hygiene.

340. The Commission has also learned that another type of sanction imposed is the transfer to other detention centers in order to restrict contact with persons outside the prison. The information received indicates that there is no official notification of the transfer to the inmate, her relatives or legal guardians; and during the course of the transfer, the inmates are allegedly subjected to ill treatment and torture.

Privatization and Certification of Prisons

341. The Commission has been informed that since 2006, several contracts to provide services for the administration and management of detention centers have reportedly been concluded, in order to reduce the financial burden on the State. In particular, high-ranking prison authorities have indicated to the Commission that "service contracts are the future of the prison system in Mexico". Specifically, through these contracts, companies would undertake to provide a "panoptic" security approach, food, cleaning, repairs, gardening, and technology. Meanwhile, according to civil society organizations, in order to comply with the terms of their contracts with private companies, each detention center must keep a number of inmates in accordance with basic installed capacity, which would encourage the use of detention as the only means to fight crime. According to civil society, privatization models have been reported mainly in prisons administered by the federal government, in particular: CEFERESO No. 1; CEFERESO # 11 in Sonora, CEFERESO No. 12 in Guanajuato, Oaxaca CEFERESO No.13, and CEFERESO # 14 in Durango.

342. In this regard, the Commission states its concern over the lack of available information on the contracts concluded by the State and the respective companies, as indicated by civil society organizations. The Commission notes that by means of an access to public information request, this data has been denied by the Decentralized Administrative Office for Prevention and Rehabilitation on the ground that is considered "reserved."510

343. Moreover, the Commission was also informed by both federal and state authorities, as well as civil society, that in order to count on the support of the Merida Initiative, a wide-reaching process to import the United States’ prison model through the international certification of the American Correctional Association ("ACA") began in 2008. The Commissioner of the Decentralized Administrative Organ informed the Commission that once the centers are certified –through the support of the Merida Initiative— in-kind support will be received, such as medical equipment and technology. According to the report by the authority in question, and other federal and state authorities, the centers with this type of certification include the following: the Federal Social Rehabilitation Center No. 9 North, in

Chihuahua; Men’s Prison Security Centers (Cevasep) vertical 1 and 2, built alongside the Men’s Preventive Detention Center North; and two centers for juveniles in the Federal District. They also reported that this certification is currently being sought for ten detention centers.

344. The Commission states its concern regarding the information received that, at least in some cases, the privatized center regime and the search for international certification, are planned and carried out in light of the US maximum-security structure, which involves standards incompatible with human rights. These schemes have involved in practice excessive restrictions on visits by family members and counsel; extremely limited access to the outdoors and to recreational activities; excessive physical inspections, even the intimate body parts of visitors.

345. Additionally, the Commission is concerned regarding the fact that the model seeking to increase security by hiring services in search of international certification, is usually a very expensive model, as indicated by state authorities and civil society organizations. In this regard, the Commission highlights the remarks of the NCHR in its Recommendation 35/2013 regarding the privatization of CEFERESO No. 11 of Sonora, indicating that despite the “high” daily cost under the model of “contract for the provision of services”, this center “has similar or even more serious shortcomings than the centers currently dependent on the federal government.” The Commission is concerned that the allocation of resources is being primarily directed to the support of repressive models, contrary to international standards, instead of being directed to the humanization of prisons and the implementation of measures to ensure the social reintegration of persons deprived of their liberty.

Lack of Differentiated Attention for Special Concern Groups

346. The Commission has received troubling information on the situation of populations most at risk of human rights violations in the context of the deprivation of liberty. Based on the information received, the Commission notes in general terms, the absence of institutions and public policies addressing their

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511 In this regard, civil society organizations and experts in the subject informed the Commission that behind these privatization schemes politically and economically powerful groups operate in accordance with the specific purpose of financial gain

512 Specifically, the CNDH indicates that the cost of CEFERESO NO. 11 in Sonora amounts to $1,670.00 (one thousand six hundred and seventy pesos 00/100 M.N.) per inmate daily, under the “CPS” model (Contract for the Supply of Services). NCHR, Recommendation No. 35/2013: On the case of inmates of the Federal Center of Social Readaptation No. 11 “CPS Sonora”, in Hermosillo, Sonora, September 25, 2013, para. 71. Available at: http://www.cndh.org.mx/sites/all/fuentes/documentos/Recomendaciones/2013/REC_2013_035.pdf; Moreover, regarding the conditions of detention, NCHR recommendation 9/2015 issued in March 2015, indicates that among the main human rights violations faced in this center are: a) “irregularities” in the realization of recreational activities; b) lock-down in their cells for most of the day, where they eat and perform their bodily functions, in insanitary conditions; c) inadequate medical care, and d) interference with visits and correspondence, as well as with calls. NCHR Recommendation No. 9/2015, on the case of violations of humane treatment and social reintegration of inmates of Federal Social Rehabilitation Center No. 11 “CPS Sonora” in Hermosillo, Sonora, March 30, 2015. Available at: http://www.cndh.org.mx/sites/all/doc/Recomendaciones/2015/Rec_2015_009.pdf
particular situation, in light of the specialty principle allowing the Mexican state to meet its special duty to provide protection.

347. With regard to women deprived of their liberty, the information received indicates that from the time of their arrest, they face serious abuses and situations unsuited to their condition. This is due to the absence of a gender perspective in public policies and local regulations. In particular, the Commission has been informed, as was noted earlier in this report, that women deprived of their liberty are subjected to various types of violence, including sexual abuse and torture. They also face serious barriers impeding access to adequate medical care, which particularly affect pregnant women and infants.

348. Likewise, civil society organizations reported that approximately 60% of the female prison population is housed in male detention centers, located in areas that put them at greater risk of abuse from other inmates and staff. Additionally, these prisons are not suitable to meet their needs, especially in the case of indigenous women, women with different sexual orientations and identities, pregnant women, nursing mothers, as well as the child population residing with them.513

349. Regarding persons with disabilities in the prison system, the UN Special Rapporteur on Torture noted that most of them are held in detention centers that are inappropriate for their treatment, and they are housed in reduced areas subject to unsanitary and overcrowded conditions, exacerbated by their health needs.514 In addition, with regard to women with disabilities held in detention centers, in 2014 the CDHDF –based on information received through its complaints mechanism, as well as documentation from women’s detention centers—identified the common problems faced by this population: overmedication, failure to ensure informed consent, and the imposition of solitary confinement.515

350. Moreover, the Commission wishes to highlight the situation faced by persons with disabilities deprived of their liberty in long stay non-penal institutions. In this respect, pursuant to information available to the Commission, violations of the right to life and physical integrity, segregation for life, prolonged use of physical restraints and solitary confinement, isolation rooms and cages and overmedication, have been documented. The alarming situation of people with disabilities in long-stay institutions such as the Centers for Assistance and Social Integration ("CASI") in Mexico City has been referred to by the UN Special

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513 On this last point, the National Commission on Human Rights in its special report on women inmates in detention centers in Mexico in 2015, determined that there is a lack of normative criteria regarding the period of time that minors born to detainee mothers, can remain with them, recording periods ranging from the first six months of life to twelve years old. CNDH, Informe Especial de la Comisión Nacional de Derechos Humanos sobre las Mujeres Internas en los Centros de Reclusión de la República Mexicana, 2015, p. 17.


Rapporteur on Torture, and by the Human Rights Commission of the Federal District (CDHDF).516

351. Also, information received by the Commission indicates that girls and women with disabilities are forcibly sterilized in several Mexican institutions. In this regard, the Commission has held that in cases where doctors perform surgeries and medical treatments, such as forced sterilization treatments, on women without their consent,517 it may constitute a violation of the right to personal integrity.518 In such cases, the provisions of the Convention of Belém do Pará—as a specific instrument for the special protection of women’s human rights—should be used to clarify the State’s obligations under Article 5 of the American Convention.519 The Commission notes in the same sense that the United Nations Committee on the Rights of Persons with Disabilities has determined that forced sterilization constitutes a violation of the right to personal integrity520 and it has expressed its concern regarding the practice of forced sterilization in the institution ‘Casa Esperanza’ in Mexico City.521

352. With regard to migrants, as already indicated in its 2013 report, the Commission notes with great concern that the detention of migrants and persons under international protection continues to be the rule rather than the exception in Mexico.522 Between July 2014 and June 2015, arrests of undocumented Central American migrants increased by 70% compared to the same period in the previous year.523 Another example is the deportation of migrant children from Mexico, which increased from 4,015 during 2011 to 12,511 between January and June, 2015, which is equivalent to an average of 2,085 deported children per month. It is worth noting that the deportation of migrants, particularly of children and

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520 This right is enshrined in Article 17 of the Convention on the Rights of Persons with Disabilities (CRPD). See Committee on the Rights of Persons with Disabilities (CRPD Committee), Concluding Observations to Mexico (October 2014), paras. 37 and 38.


adolescents, entails their previous detention, which can be prolonged for a long time. After the launch of the Southern Border Program, Mexico is currently detaining and deporting more Central American migrants than the United States, reversing the historical trend.524 Also, civil society organizations informed the Commission that after the launch of the Southern Border Program (PIFS), crimes and abuses against migrants, asylum-seekers and refugees have increased.

Table X – Events of detained migrants in migration stations I
2013 – 2015*

<table>
<thead>
<tr>
<th>Year</th>
<th>Total No. of Migrants Detained</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>86,298</td>
</tr>
<tr>
<td>2014</td>
<td>127,149</td>
</tr>
<tr>
<td>2015</td>
<td>144,452</td>
</tr>
</tbody>
</table>

* Figures for January through September 2015. Source: National Institute for Migration

524 IACHR, Hearing on the Rights and Interception of Individuals Eligible for International Protection, October 22, 2015. Available at: https://www.youtube.com/watch?v=aoe3qH-oHd8
CHAPTER 5

SITUATION OF HUMAN RIGHTS DEFENDERS, JOURNALISTS AND FREEDOM OF EXPRESSION
SITUATION OF HUMAN RIGHTS DEFENDERS, JOURNALISTS AND FREEDOM OF EXPRESSION

A. Human Rights Defenders

353. In the context of violence that affects Mexico, during the visit, the Commission paid particular attention to the situation of human rights defenders, given their important role in the promotion and defense of human rights. Despite the acknowledgement of State authorities of the work that they do, which is also reflected in important efforts to provide them with protection, the IACHR observed that human rights defenders continue to be subject of grave situations that threaten their human rights.

354. The IACHR has received information about disappearances and attacks on the lives of journalists and lack of humane treatment by both state agents and non-governmental agents; there has been harassment and threats, surveillance, communication interception, as well as challenges in the application of the mechanism to protect human rights defenders and journalists. According to civil society organizations, legislation directly or indirectly criminalizes social protest and the work of human rights defenders. They highlight the open use of codified language such as “obstruction of public roadways” or attacks on “national wealth.”

355. In the recent years, the Inter-American Commission has granted several precautionary measures to protect an important number of human rights defenders that have experienced a series of continuous threats, harassment and acts of violence, because of their work in the defense of human rights. Some human rights defenders protected by precautionary measures in Mexico include defenders of the environment, migrants, indigenous peoples, internally displaced persons, LGBT community, and organizations that seek the truth in relation to forced disappearances, the investigation of acts of torture, extrajudicial executions and other human rights violations that have taken place in Mexico. Specifically, during the last year, eight of the precautionary measures granted by the Commission regarding Mexico are related to the situation of human rights defenders. These have been in matters in which the IACHR has requested the State to adopt the necessary measures so that beneficiaries can do their activities as human rights defenders without being subject to violence, threats and harassment.

356. During the visit, the IACHR received testimonies of human rights defenders, including current beneficiaries, who informed that the murders, attacks, threats

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against them and their families, being followed continue, as well as a series of statements by state authorities that disparage and stigmatize them due to their work as human rights defenders. In this context, and the one observed in the follow up of precautionary measures that are granted, the Commission received worrying information on a series of challenges in the pursuance of the investigations related to threats, attacks, harassments, despite the intimidatory effect that these situations created among human rights defenders.

357. Regarding the situation of women human rights defenders in Mexico, the IACHR has issued a number of precautionary measures aimed at protecting the life and personal integrity of women human rights defenders who have been attacked, threatened and harassed as a direct consequence of their work. Under this scenario, the IACHR has received concerning information regarding the lack of timely implementation of effective security measures that allow the prevention of irreparable incidents that may compromise the life and integrity of human rights defenders and their families. In this sense, throughout 2015, the Inter-American Commission granted two precautionary measures in favor of three women human rights defenders who were allegedly in a situation of defenslessness.

358. First, on February 25, 2015, the IACHR granted precautionary measures in favor of Norma Mesino Mesino and 10 members of her family, who were at risk in light of the alleged incidents of violence, harassment and threats that they were allegedly subject to. Under the circumstances, the Commission took into special consideration that, according to the allegations, the incidents were a direct consequence of Norma Mesino’s work as a woman human rights defender and the actions taken by her to resolve the murders of her family members. In addition, the Commission took into account that, despite the fact that Norma Mesino had precautionary measures from the State, they were not ideal or effective, such that the human rights defender was in an alleged situation of defenslessness.

359. The IACHR also granted precautionary measures on April 27, 2015, in favor of two women human rights defenders in the Sierra Madre region of Sinaloa. In that case, the Commission took into account that E. and K. were facing a series of threats and harassments as a consequence of their activities of reporting, representing and accompanying a group of people allegedly displaced in that region of Sinaloa. Under the circumstances, the Commission took into special consideration the information provided by the petitioners regarding the lack of safety measures that might protect the life and integrity of E. and K., coupled with the alleged attempt against the life of the Municipal President of Choix, who represented the only state authority that was offering support to these defenders.

360. The IACHR also received information on the violence suffered by human rights defenders and indigenous leaders, including those who are under precautionary measures issued by the Commission in the state of Chihuahua. Specifically the

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Commission has learned about leaders and defenders in rural areas of the aforementioned state, including defenders of the environment who oppose to extractive projects, being subject to violence at the hand of individuals who are allegedly connected to companies participating in said projects; sometimes with tacit or explicit support of the local authorities. Reports indicate that as a strategy to pressure human rights defenders to desist from their work in many cases the companies driving the projects use the criminal justice system to prosecute indigenous leaders, farmers [campesinos] and opposing environmentalists for ordinary crimes. During the in loco visit, the IACHR received plenty of information about specific cases criminalizing leaders, including members of El Barzón el Chihuahua, opposing environmentalists in General Cepeda, Coahuila, The Veracruz Assembly for Environmental Initiatives and Protection [La Asamblea Veracruzana de Iniciativas y Defensa Ambiental] (LAVIDA), Mexican Center for Environmental Law (CEMDA), among many more.

The Inter-American Commission observes that potentially opening groundless criminal investigations or judicial actions against human rights defenders in retaliation of their work, not only has a chilling effect on their work but it can also paralyze their efforts to defend human rights, since their time, resources, and energy must be dedicated to their own defense. In this sense, the IACHR considers that the State must ensure that their authorities or third persons will not manipulate the punitive power of the state and its organs of justice in order to harass those who are dedicated to legitimate activities, such as human rights defenders.

1. Attacks on Life and Personal Integrity

During the 2006-2012 time frame, the United Nations High Commissioner for Human Rights (OHCHR) registered 245 attacks against defenders, 22 defenders and 5 family members killed allegedly for reasons related to their defense of human rights and reported 6 additional defenders whose whereabouts are unknown. The highest number of reported attacks on defenders was in Oaxaca,
Chihuahua, Coahuila, Guerrero and Federal District\textsuperscript{532} and from December of 2012 to May of 2013, they report that 16% were committed in Oaxaca, 16% in Guerrero, 13% in Chiapas, 11% in the Federal District and 9% in Chihuahua.\textsuperscript{533} Also the Rapporteurship for Freedom of Expression and the Human Rights Defender Assistance Unit of the Federal District Human Rights Commission (CDHDF) registered 47 alleged attacks against human rights defenders at the national level in 2010, sixty-three in 2011, 485 in 2012 and 214 up to June 29, 2013. Arbitrary detention was at the top of the list with 102 in 2012 and 73 in 2013. According to the numbers provided by civil society, from June 1, 2012 to May 1, 2015 there were at least 918 reported human rights violations against defenders in Mexico.

Also, the IACHR received the following information from Urgent Action for Human Rights Defenders [\textit{Acción Urgente para Defensores de los Derechos Humanos}] (ACUDDEH), Cerezo Mexico Comission [\textit{Comité Cerezo Mexico}], and the National Campaign Against Forced Disappearance [\textit{Campaña Nacional Contra la Desaparición Forzada}]:

### Human Rights Violations (HRV) against defenders in Mexico

<table>
<thead>
<tr>
<th></th>
<th>NUMBER OF HRV</th>
<th>TOTAL NUMBER OF CASES</th>
<th>TYPE OF VICTIM</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 JUN 2012 – 31 MAY 2013\textsuperscript{534}</td>
<td>156</td>
<td>153</td>
<td>90 persons</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>25 organizations</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>10 communities</td>
</tr>
<tr>
<td>1 JUN 2013 – 31 MAY 2014\textsuperscript{535}</td>
<td>274</td>
<td>204</td>
<td>133 persons</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>47 organizations</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>24 communities</td>
</tr>
<tr>
<td>1 JUN 2014 – 31 MAY 2015\textsuperscript{536}</td>
<td>488</td>
<td>330</td>
<td>248 persons</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>47 organizations</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>35 communities</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>918</strong></td>
<td><strong>687</strong></td>
<td><strong>471 persons</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>119 organizations</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>69 communities</strong></td>
</tr>
</tbody>
</table>

\begin{footnotesize}


\end{footnotesize}
According to these organizations, the most human rights violations would have been in the state of Guerrero in the June 2014 to May 2015 time frame, with 202 violations to human rights defenders; followed by Mexico City with 140. Likewise, there were 52 documented cases of human rights defenders who were victims of forced disappearance and 22 extrajudicial executions during that same time frame.

The IACHR learned that between 2010 and 2014, civil society organizations registered 615 cases of attacks to human rights defenders and organizations; including 36 killings, with Guerrero and Oaxaca as the states with the highest number of reported attacks. All these cases remain in impunity.

The IACHR has consistently reiterated that the most effective means to protect human rights defenders in the hemisphere is to investigate effectively acts of violence against them and sanctions those responsible. Therefore, States have the obligation to fight impunity with all means available, because impunity facilitates the continuing repetition of human rights violations and the total defenselessness of victims and their families. Impunity before these types of aggressions, feed the perception that these acts are tolerated by the State and its institutions.

The IACHR has noted that human rights defenders make a pillar that is essential for the strengthening and consolidation of democracies, since the ends of their work concerns society as a whole and is for its benefit. Therefore, when a person is not allowed to defend human rights, the rest of society is affected. The Commission also recalls that the work of defenders is essential for building a solid, long lasting democratic society. They are protagonists in the process to fully obtain the Rule of Law and strengthening of democracy.

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368. As the Commission has noted before, violent acts and other attacks against human rights defenders not only affect individual protection of every human, but also attack the fundamental role they play in society and is equal to leaving everyone they work for defenseless. Consequently, the protection of human rights defenders is urgent and indispensable in order to guarantee the right to life, their work as defenders and therefore the validity of democracy and human rights.

369. In addition, the Commission notes that statements delegitimizing and discrediting the work of human rights defenders makes them more vulnerable. On several opportunities the aforementioned comments suggest that non-governmental organizations work with dissenting armed groups, or design campaigns against State security or disparage the international image of countries. Specifically, the Commission considers that these type of statements that discredit the work and comes from public officials, expressed within the context of political violence, or high polarization or social conflict, send a message that acts of violence used to silence human rights defenders and their organizations have governmental acquiescence.

370. The State should publicly recognize that human rights protection and promotion is a legitimate action and that defenders are not acting against state entities by exercising them, but rather quite to the contrary they are strengthening the Rule of Law and the broadening of rights and guarantees for everyone. All the authorities and local public officials should be aware of the principles relative to defenders activities and their protection, as well as the applicable regulations for their observation.

371. Moreover, the UN Special Rapporteur on the Independence of Judges and Lawyers, on her mission to Mexico in 2011, noted that in many cases, judges, court officials and legal professionals are unable to act freely or fully independently because they are faced with threats, intimidation, harassment and other forms of undue pressure. In addition, organized crime in particular is stepping up its efforts to infiltrate and interfere with judicial institutions through the use of corruption and threats.

372. According to the information received, in Guerrero, the IACHR learned that first instance operators of justice and prosecutors were subject to pressure when they investigate and preside over human rights violations cases. It was also indicated that justice operators are subject to political pressure, mainly by the Executive, in cases where there are cases of alleged corruption of public officials. It was also reported that prosecutors and judges are subject to intimidation and coercion by members of organized crime. In this context, the IACHR observes that on June 2,
2015, unidentified persons threw an explosive artifact in the offices of the Judicial Branch of the Federation in the town of Matamoros, Tamaulipas resulting 4 persons wounded.\textsuperscript{547} Also, on November 9, 2015, five bullets against the façade of the Judicial Branch of the Federation in the city of Saltillo, Coahuila were registered.\textsuperscript{548}

373. The IACHR reiterates that if States do not guarantee the security of judges and justices against all kinds of external pressures, including directly reprimings against them and their families, their judicial role can be gravely affected, which frustrates the free exercise of the judicial functions and access to justice for victims of human rights violation.\textsuperscript{549} Consequently, the IACHR urges the Mexican State to investigate, process and punish those who attach justice operators. Similarly, the State must put in place adequate protection mechanisms according to their needs.

\section*{B. Situation of Journalists and Attacks on Freedom of Expression}

374. During the last decade Mexico has become one of the most dangerous countries for journalism.\textsuperscript{550} The IACHR has noted with concern the increase of different types of attacks and killings of journalists and communicators in Mexico. According to reports received by the Office of the Special Rapporteur for Freedom of Expression there were more than 55 journalists killed between 2010 and 2015, six were killed in 2014\textsuperscript{551} and six more so far in 2015. According to the National Commission on Human Rights (CNDH), there were 107 journalists killed between 2000 and September of 2015.\textsuperscript{552}

375. According to the information gathered by the Special Rapporteurship during the \textit{in loco} visit, in recent years the situations of violence towards journalists, communicators, and media workers in Mexico have increased, particularly in certain specific states,\textsuperscript{553} despite the constitutional and legislative reforms and the adoption of measures by the Mexican State to safeguard their integrity, such as the approval and rollout of a mechanism to protect journalists and human rights defenders. Over the last decade the Commission has utilized their precautionary

\textsuperscript{547} Diario de Yucatan. Ataque contra instalaciones del poder judicial deja 4 heridos. 2 June 2015. Diario el Informador, Condenan ataques a oficinas del poder judicial en Matamoros, 2 June 2015.

\textsuperscript{548} SDP Noticias. Investiga PGR ataque a edificio del poder judicial, 11 November 2015.


\textsuperscript{550} Committee to Protect Journalists (CPJ). \textit{CPJ’s 2014 Global Impunity Index} and Reporters without Borders. \textit{2015 World Press Freedom Index}.


\textsuperscript{552} CNDH, \textit{Report by the Comisión Nacional de los Derechos Humanos for the on-site visit of the IACHR}. September 27, 2015, p. 38.

measures mechanism to request Mexico protect a significant number of journalists who have been victims of different types of harassment and threats.

376. Violence against communicators has worsened in federation areas where organized crime is prominent and in many cases, the members act in collusion with state agents. The information the IACHR has affirms that the victims of violence are mainly journalists who have filed complaints or reported on administrative corruption in the local arena, on drug trafficking, on organized crime, on public safety and on other related issues. According to the information reported by the CNDH the states with the highest number of killings from 200 to August of 2015 are Veracruz, Tamaulipas, Guerrero, Chihuahua and Oaxaca; practically six out of ten homicides took place in those five states.

377. Killing journalists and media workers is the most radical type of censorship. Nonetheless, the Rapporteurship has also noted and received complaints about other types of attacks on those exercising their right to freedom of expression in Mexico. These attacks include disappearances, threats, kidnapping, physical assaults, attacks on media facilities and cyber attacks.

378. Within the context of elections in Mexico during the first quarter of 2015 there were 10 candidates murdered according to the information supplied by the State, and information was received regarding different violent acts on journalists and communicators. Recorded attacks include physical assaults, equipment theft, deleting journalist material, cyber threats and attacks (blocking pages, hacking, denial of service –DDoS–). Guerrero was one of the states where the context of the election was the most adverse to communicators and protesters.

379. In 2015, the press was affected in ways that show a complex context for the exercise of journalism, not only because of the risks of threats and attacks, but also because of events such as what occurred to journalist Carmen Aristegui, who

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557 According to the information provided by the State, all homicides are currently being investigated. United Mexican States. Mexican State’s report in response to the request for information under Article 41 of the American Convention on Human Rights issued on June 19, 2015. Mexico, Federal District, August 24, 2015.

uncovered an alleged corruption case with senior authorities purchasing a luxury home used by the president of the republic. After that and other investigations, the concession company from the radio station they had a contract with excluded her and her team, even though the ratings indicated their program had a big audience. MVS, the company, alleged that Arestegui and her team used the image and brand of the press for unauthorized purposes in order to support the Mexico Leaks platform. This platform is used to find information from confidential sources.

380. During 2014, the IACHR also received information about serious violent events and arbitrary detentions occurring during protests; affecting dozens of protestors and journalists. During the in loco visit his information was confirmed by civil society organizations defending freedom of expression and human rights.

381. The IACHR notes that the main obstacles to freedom of expression in Mexico are acts of violence and intimidation against journalists and other media workers. Violence and the high levels of impunity make self-censorship the alternative journalists take in order to safeguard their rights to humane treatment and to life. The Commission has noted that violence against journalists or media workers because of their profession, not only affects their voices, specifically when it comes to freedom of expression, but is also a violation of the right society in general has to seek and receive all types of information and ideas in a peaceful and free manner. As the Inter-American Court of Human Rights has stated: “journalism can only be exercised freely when those who carry out this work are not victims of threats or physical, mental or moral attacks or other acts of harassment.”

382. In accordance with international human rights standards, the State of Mexico is not only obligated to guarantee their agents not commit acts of violence against journalists, but also to reasonably prevent attacks from individuals when they know or should know about the risk. Principle 9 of the IACHR Declaration of Principles on Freedom of Expression states: “The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate

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559 Aristegui Noticias, La casa blanca de Enrique Peña Nieto (investigación especial), November 9, 2014; Ombudsman Noticias MVS (on Facebook), Posicionamiento público sobre caso México Leaks, March 12, 2015.


such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.”

1. Killings

383. According to the numbers reported by the CNDH, from September of 2000 until September of 2015 there were 107 journalists killed,564 on the other hand the Office of the Special Prosecutor for Crimes against Freedom of Expression (FEADLE) reports on their web portal that from the year 2000 until August of 2015 there were 103 journalists murdered.565

384. Veracruz, where the IACHR went, has the greatest number of journalist killings in the last five years. According to the CNDH figures between the years of 2005 and 2015 there were 16 killings and between 2010 and 2013 there were four cases of journalists forced to disappear.566 According to the information offered by FEADLE out of the 40 cases where it has exercised jurisdiction, 8 are in Veracruz. The Special Rapporteurship has received information on 16 murders of journalists as of 2010. The State Commission for the Care and Protection of Journalists, has opened 69 protection cases, 22 of them in 2015 and 46 open files for protection are open as of September of 2015.

385. During 2014 the Rapporteurship received information on 5 journalist and media worker killings567 and has followed up on them using available tools. During 2015 the Rapporteurship documented 6 more journalist killings.568 The Special Rapporteurship disapproves of all these events and has continued to follow up on

564 CNDH, Report by the Comisión Nacional de los Derechos Humanos for the on-site visit of the IACHR. September 27, 2015.
565 PGR, Fiscalía Especializada para la Atención de Delitos contra la Libertad de Expresión, FEADLE. Estadísticas.
566 CNDH, Report by the Comisión Nacional de los Derechos Humanos for the on-site visit of the IACHR. September 27, 2015, pp. 40, 41.
567 The cases registered by the Rapporteur during 2014 are those of journalists and media workers: Jorge Torres Palacios, columnist for El Dictamen weekly and spokesperson of the Dirección Municipal de Salud of Acapulco, in the state of Guerrero; Octavio Rojas Hernández, correspondent of El Buen Tono daily in the state of Veracruz; Atlalío Román Tirado, radio host of Fiesta Mexicana 98.7 FM and community leader; Jesús Antonio Gamboa Urías, editor of the political magazine Nueva Prensa; in an attack against journalist Indalecio Benítez, editor and founder of community radio station Catalena Mexiquense 98.1 M, his 12-year-old son was murdered. Twitter @Miut3, identified as María del Rosario Fuentes Rubio; and Gregorio Jiménez de la Cruz, journalist in the police section of newspapers Notisur and Liberal del Sur. During 2015, the IACHR also received information on other crimes in which the authorities find no clear connection to the exercise of the profession. On July 9, 2015 the editor of Oaxaca digital newspaper Foro Político, Edgar Hernández García, was murdered in Huatulco, Oaxaca. On June 26, the dead body of journalist Gerardo Nieto, editor of local weekly El Tábano, was found in Comonfort, Guanajuato. On June 18, 2015, journalist Ismael Díaz López was stabbed to death. The correspondent of daily “Tabasco Hoy” was found dead in his home of Teapa, Tabasco.

568 The victims were Abel Manuel Bautista Raymundo, owner and editor of community radio station Spacio 96.1 and chairman of the community radio association of Santiago Juxtlahuaca; Armando Saldaña Morales, who worked at radio station La Ke Buena 100.9 FM in Tierra Blanca, Veracruz and who covered regional politics and conflicts; Juan Mendoza Delgado, editor of news website Escribiendo la verdad; Filadelfo Sánchez, La Favorita radio host in Miahuatlán.
them and to demand an immediate and timely investigation of these crimes in order to identify and punish those responsible. Some of these horrible events have received special attention from Mexican society and the international community. For example, the cases of Moisés Sánchez Cerezo and Rubén Espinosa, two bloody murders represent the silencing of the press covering cases of high public interest in Veracruz. These are evidence of the challenges the judicial system in Mexico faces in order to comply with its obligation to effectively investigate, judge and punish violence against journalists.

386. The body of journalist and activist José Moisés Sánchez Cerezo, owner of the La Unión weekly, from Medellín de Bravo (Veracruz), was found by the police close to the city where he lived and practiced journalism 22 days after he disappeared. Sánchez Cerezo published information of interest to his community in a publication he edited with some frequency, and more habitually on his Facebook social network page. He questioned the performance of Mayor Omar Cruz Reyes on both platforms.

387. On January 26, 2015, the Commission issued precautionary measures “to determine the situation and whereabouts of José Moisés Sánchez Cerezo, with the purpose of safeguarding his life and personal integrity.” The investigation of this case is under the Office of the Prosecutor of the State of Veracruz (Fiscalía General del estado de Veracruz), which to date has been able to link in 4 people who participated in the plan to make Moisés Sánchez disappear and to kill him.

388. Although the victim is a journalist and there are indicia to believe this crime was related to his work, the FEADLE decided not to exercise jurisdiction. That decision was based on two arguments, the first is that Mr. Sánchez was not a journalist but rather a taxi driver, the basis for this argument relies upon the fact that he was doing that over the last few years in order to support his family, and the second argument was that the Office of the Prosecutor for Veracruz had jurisdiction. The family of the journalist lodged and recurso de amparo recourse to demand FEADLE takes on the case; nevertheless the recourse was dismissed. The Commission is concerned that the very same investigative entity utilizing different arguments creates its own obstacles for leading the investigation. These may very well have a negative

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570 Article 19, Tres días antes de su desaparición, alcalde amenazó al periodista Moisés Sánchez, January 3, 2015.
573 Animal Político, Fiscalía para la libertad de expresión descarta caso de Moisés Sánchez; dice que no es periodista, September 11, 2015; Imagen Siglo XXI. Descarta FEADLE caso Moisés Sánchez, dice que no era periodista, September 11, 2015; FEADLE no atraerá investigación del caso de Moisés Sánchez Cerezo, dice que no era periodista. September 11, 2015; El Diario de Coahuila. Fiscalía para la libertad de expresión descarta caso de Moisés Sánchez porque dice que no es periodista. September 11, 2015.
impact on the investigation, especially when it comes to identifying masterminds for prosecution. As we will see later this will be repeated in other cases.

389. On July 31, 2015 in the Federal District of Mexico, press photographer Rubén Espinosa and activist Nadia Vera Pérez and three other women were killed. According to the information available, Rubén Espinosa worked in the state of Veracruz for the magazine Revista Proceso and the Cuartoscuro and AVC Noticias agencies. He was also an activist demanding the government of that state issue measures to prevent, investigate and punish violence against journalists.

390. In June he decided to take refuge temporarily in Mexico City after being threatened. In an interview days before his murder Espinosa expressed his fear on an attack and discussed the following events that took place while he was covering a student protest: “a person from the State Government Adjutancy [Ayuntamiento del Gobierno de Estado] for Veracruz approached him and warned him: “stop taking pictures if you do not want to end up like Regina.” Regina Martínez, also a journalist killed in 2012, was well known for reporting and investigating and her colleagues see her death as the beginning of a tragic and violent era against the press in Veracruz.

391. On several occasions Espinosa noted that Javier Duarte Ochoa, the governor of Veracruz, was responsible for the lack of freedom of expression in the state. The photographer also reported recent harassment and surveillance incidents. Although he was at risk he decided not to go to the state or federal mechanism for journalist protection because, according to several sources, he expressed his distrust towards those instances. The murder of Espinosa is the first killing of a journalist taking refuge in Mexico City; this sends a message of insecurity to several journalists who have left their regions to seek refuge in the safety of Mexico City after receiving threats. The multiple victim crime has created a general rejection by Mexican society. After the murder hundreds of people protested to demand justice and in fact close to five-hundred journalists from around the world signed an open letter to President Peña Nieto demanding justice be served in the cases of the killed journalists and guarantee the exercise of journalism as it has become one of the most dangerous countries for journalists. PFGDF is currently heading the investigation.

Footnotes:


575 Plumas Libres, Fotoperiodista de Proceso sale de Veracruz por acoso e intimidaciones, June 13, 2015; El Diario. Salí de Veracruz para huirle a la muerte; en DF lo alcanzó, August 2, 2015.


578 El País.com, La carta dirigida al presidente mexicano Enrique Peña Nieto. Available at: http://internacional.elpais.com/internacional/2015/08/17/actualidad/1439764029_365592.html; El Universal. CARTA de
392. On the other hand, Nadia Vera Pérez an activist for the #YoSoy132 student movement in Xalapa (Veracruz), in an interview published eight months earlier, Vera Pérez pointed the finger at Duarte de Ochoa and “all his cabinet” for “anything” that could happen to those who participate in social movements in that state: “they are the ones who are ordering to repress us,” she said. According to the information available, Nadia Vera Pérez was tortured before she was killed.

393. With this recent information, the IACHR wants to illustrate the serious wave of homicides of Mexican journalists that has not ceased in over a decade and most investigations continue in impunity. In the 2010 Special Report on the State of Freedom of Expression in Mexico, the Special Rapporteurship followed up extensively on a series of journalist killing, to bring to light the characteristics of the crime itself, as well as the perceived obstacles to prosecution at the time. On this new visit, the Rapporteurship again requested the updated information on the investigations of these and other earlier killings, however as of the date of this report the authorities were gathering the requested information.

394. It is fundamental for the Inter-American Commission that the State of Mexico fully investigates the murders of the journalists in an effective and impartial manner, shedding light on the motives and making a judicial determination on whether it is related to the exercise of journalism or freedom of expression. The authorities should not discard the exercise of journalism as motive for murder and/or attacks before the investigation is completed. In that regard, the IACHR reiterates the 2010 recommendation issued by Frank la Rue, the former United Nations Special Rapporteur on the promotion and protection of the right to freedom of expression to “[a]dopt special protocols for the investigation of crimes against journalists whereby the hypothesis that the motive for the crime was the profession be privileged and exhaustive.”

395. The omission of logical avenues of investigation, or the lack of diligence in the gathering of evidence has had repercussions on the course of the proceedings for indictment or at trial. Any deficiency in the logical avenues of investigation affects, above all, the identification of the masterminds.
Likewise, the IACHR and its Special Rapporteurship for Freedom of Expression remind the State that it is important to: “Recognize, at the highest levels of the State, the legitimacy and value of the work of journalists, and condemn attacks committed in reprisal for the exercise of freedom of expression.”

The IACHR recalls there is “the responsibility of government officials to maintain a public discourse that does not place journalists at increased risk of violence. The Office of the Special Rapporteur has recalled, among other things, that a simple but highly effective protective measure consists of the highest authorities of the State recognizing in a consistent, clear, public and firm manner the legitimacy and value of the journalistic profession, even when the information disseminated may prove critical of, inconvenient to or inopportune for the interests of the government. Similarly, it is essential that the authorities vigorously condemn attacks committed against media workers and encourage the competent authorities to act with due diligence and speed to investigate such events and punish those responsible.”

2. Disappearances, Kidnappings and other Aggressions

According to statistics kept by the CNDH, 20 journalists disappeared from 2005 to September of 2015. During what has transpired of 2015, the Rapporteurship has been able to document 3 cases of journalist disappearance and kidnapping. These cases are Bernardo Javier Cano Torres, kidnapped in Iguala, Guerrero; a journalist for digital media outlet TV Sureste was kidnapped for several hours and sexually assaulted; Enrique Juárez Torres, editorial director for the El Mañana newspaper in Matamoros was kidnapped by an armed group in Matamorros.
399. The Special Rapporteurship has documented other types of attacks as well, in most cases threatening them with disappearance and death, attacks on the media outlet infrastructures, destruction of material, cyber attacks, and intimidating phone calls and stalking. In many cases the attackers entered the residences of the journalists and stole investigative material or key elements of it, such as computers for example.

400. Reporter Edwin Meneses for the BMM weekly and community station La Joya 107.5, as well as announcer Samuel López were detained by members of the Public Prosecutor of the Republic [Procuraduría General de la República] (PGR); accused of alleged unauthorized use of a radio through community radio. Both had to pay seventy thousand pesos (about $4,000 dollars) as bail. That same day in the state of Oaxaca the PGR closed three community radio stations and seized their equipment in Salina Cruz and one in Tehuantepec.589

401. Likewise the Rapporteurship learned that at the beginning of the year the Televisa headquarters in Tamaulipas was attacked with explosives twice.590

402. Through the precautionary measures mechanism, the IACHR received information that two journalists from Contralínea magazine, beneficiaries of the precautionary measures issued by the IACHR, were victims of searches in their homes in September, where their documents and computers were taken. In addition, two police dressed in civilian clothing during the Xalapa, Veracruz Independence Day celebration, assaulted photojournalist Karlo Reyes. These events are in addition to the aforementioned assaults taking place in the context of elections.

403. In the 2014 annual report the Rapporteurship documented 35 cases of assaults on journalists, media outlet facilities, and organizations for the defense of freedom of expression; among other things.591 Many of the following cases were brought to the attention of the authorities.592

404. Some of the cases of agressions against journalists recorded this year include Hernán Villarreal Cruz, journalist for the Presencia newspaper on December 14, 2014 in the municipality of Las Choapas in the state of Veracruz;593 Anabel
Hernández, journalist for Proceso magazine, on December 21, 2013;\textsuperscript{594} Antonio Mundaca, Eduardo Jiménez Sandoval, Víctor López and José de Jesús Alcántara, for the El Tuxtepecano newspaper in Oaxaca;\textsuperscript{595} a reporter for Pulso and San Luis Hoy, on January 12, 2014.\textsuperscript{596} Entrepreneur and partner in the Notivisión newspaper, Ulises Mejía del Ángel, in the municipality of Alamo Temapache in the state of Veracruz, on January 23, 2014;\textsuperscript{597} reporter Sandra de los Santos and the news portal team where she works, Chiapas Paralelo;\textsuperscript{598} José Alberto Morales Santos, in Chilpancingo, February 13, 2014;\textsuperscript{599} Luis Méndez, reporter for the Somos el Medio portal, on February 18, 2014.\textsuperscript{600} On March 20, 2014, Fabiola Gutiérrez Quiroz,

\begin{verbatim}
2014; sin embargo, En dos días, tres periodistas son agredidos por policías y sujetos armados en Zacatecas, DF y Veracruz, 16 de diciembre de 2014; Independiente de Hidalgo, Levantan y amenazan a reportero de diario Presencia, en Veracruz, 16 de diciembre de 2014.

The group apparently kidnapped the journalist’s escort for a few hours. The incident was reported to the Office of the Attorney General linked to the Special Prosecutor for Crimes against Freedom of Expression (FEADLE). Article 19, PGR obligada a esclarecer allanamiento a casa de Anabel Hernández, January 6, 2014; El Diario, Exigen investigación seria por agresión de periodista, December 30, 2013; Zacatecas al día, Allanan El Domicilio De La Periodista Anabel Hernández, December 31, 2013; La Policía, Comando armado allanó domicilio de la periodista Anabel Hernández, No date; El Toque, Nueva agresión contra la periodista mexicana, Anabel Hernández, January 6, 2014.

The attacks apparently took place on January 1, 2014 when the reporters reached the municipality to cover the inauguration of the mayor of San Miguel Soyaltepec. The journalists were apparently attacked with stones, sticks and machetes by people blocking a road in the municipality. Article 19, ALERTA: Cuatro periodistas golpeados y amenazados en Oaxaca, January 3, 2014; El Piñero de la Cuenca, Militantes del PUP asisten golpiza e intentan linchar a fotógrafo y directivos del periódico El Tuxtepecano en Temascal, January 1, 2014.

According to reports, the journalist was stopped outside his home by strangers who allegedly identified themselves as judicial police and forced him into a vehicle. Once there he was accused of a crime, and when the reporter identified himself as such, they said, "Are you the one who publishes those little articles?" while he was physically and verbally assaulted. La Jornada, Denuncian agresión a reportero en SLP, January 19, 2014; La Orquesta, Nueva agresión a periodista en San Luis Potosí, January 18, 2014; Periodistas en riesgo, Denuncia Editorial secuestro de reportero, January 12, 2014; Centro de Reportes Informativos sobre Guatemala (Cerigua), Denuncian agresión a periodista en San Luis Potosí, January 20, 2014.

The newspaper had been threatened before, and the Mechanism for the Protection of Human Rights Defenders and Journalists of the Ministry of the Interior (SEGOB) at the Federal level, as well as other government institutions in the State, had apparently ordered a set of protective measures to ensure the safety of the newspaper and its workers. Article 19, ALERTA: Últimas agresiones contra la prensa en México, January 25, 2014.

The newspaper believes the judicial investigation "has no historical irregularities that suggest that this action seeks to intimidate the exercise of freedom of expression of the team at Chiapas Paralelo news website." The website noted that it was not the first time the government tried to intimidate them. Article 19, ALERTA: Últimas agresiones contra la prensa en México, January 25, 2014; Chiapas Paralelo, Carta abierta al gobernador del estado, Manuel Velasco, January 28, 2014; CNN México, Una periodista de Chiapas denuncia un intento de “amedrentar” a su medio, January 31, 2014; El País, El Gobierno de Chiapas investiga a la familia de una periodista crítica, January 29, 2014.

The incidents took place after he published a column denouncing alleged arbitrariness and acts of torture committed by the paramilitaries in the municipality. Morales had filed a complaint with the Office of the Attorney General against the leader of the Unión de Pueblos y Organizaciones del Estado de Guerrero on charges of death threats, intimidation and violation of freedom of expression. Proceso, Denuncia reportero acoso de autodefensas de Guerrero, February 14, 2014; Libertad Guerrero, Reportero denuncia penalmente a Bruno Plácido por amenazas e intimidaciones, February 14, 2014; Alberto Morales Santos, Solicito su valiosa intervención, February 21, 2014. Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

\end{verbatim}
journalist for that same portal;\textsuperscript{601} Pedro Arzate García in Chilpancingo, state of Guerrero, on February 28, 2014;\textsuperscript{602} Gustavo Sánchez, general director for the news portal La Policiaca del Isto, in Salina Cruz, state of Oaxaca;\textsuperscript{603} on March 12, 2014, Balbina Flores Martínez, correspondent for Reporters Without Borders (RSF);\textsuperscript{604} Abel Martínez Reyes, for newspapers Notisur y El Mañana and Isidro Domínguez Sánchez, owner of the political weekly La Libertad;\textsuperscript{605} Columnist and political expert Denise Dresser on March 31, 2014;\textsuperscript{606} the general director of the Mexico and Central America office for the Artículo 19, Darío Ramírez, on March 16, 2014;\textsuperscript{607} the director of Agencia Rubios News agency, Abisaí Rubio; and journalists Mario Mosqueda and Neftali Antonio Gómez in the city of Nuevo Laredo, state of Tamaulipas, on April 4, 2014.\textsuperscript{608}


\textsuperscript{602} The incident apparently took place when the journalist, who is the news anchorman of Siga TV network, was heading to the local Office of the Attorney General to request protection and denounce acts against him. That morning, the reporter had noticed that a car was outside his office and was following him, after which he decided not to enter his workplace. Given the facts, the local authorities had commissioned, in a temporary and extraordinary manner, two escorts to accompany him. Article 19, Alerta: Periodista es hostigado y es allanada su casa en Guerrero, March 1, 2014; Cencos, Alerta LE: Periodista es hostigado y es allanada su casa en Guerrero, March 1, 2014; Clases de Periodismo, México: Allanan casa de periodista hostigado, March 2, 2014.

\textsuperscript{603} The first of these occurred on March 10 when in the midst of his radio news broadcast he apparently received a call on the air in which a man warned him that he already had his “location in order to murder him.” This first threat was reported to the Office of the Attorney General which led to an investigation being opened by office 13 of the Special Prosecutor for Crimes against Freedom of Expression (FEADLE), but which had shown no progress by the end of May. Following the publication of an article on its website on May 2, the journalist apparently received text messages on his phone warning him that, because he had published information related to a local television host, he would suffer the consequences. The third threat apparently occurred on May 5, when masked men stopped him and demanded he withdraw a newspaper article published on his website or otherwise he would be killed. Article 19, #ALERTA: Periodista de Oaxaca amenazado de muerte por tercera ocasión, May 9, 2014; Article 19, Alerta: Periodista de Oaxaca recibe amenaza de muerte, March 11, 2014; Reporters Without Borders (RSF), “LAS AUTORIDADES MEXICANAS DEBEN OTORGAR PROTECCIÓN CUANTO ANTES A LOS PERIODISTAS AMENAZADOS”, May 23, 2014; Diario Avanzada, Amenazan de muerte a periodistas en Oaxaca y el DF; CNDH realiza investigaciones, May 25, 2014.

\textsuperscript{604} The events were reported to the Special Prosecutor for Crimes against Freedom of Expression (FEADLE) and the Human Rights Commission of Mexico City. Reporters Without Borders (RSF), La corresponsal de RSF recibe llamadas amenazantes, March 13, 2014; Article 19, Alerta: Corresponsal de RSF en México es amenazado, March 13, 2014; World Association of Newspapers and News Publishers (WAN-IFRA), WAN-IFRA calls on Mexican authorities to investigate threats against freedom of expression advocate, March 19, 2014.

\textsuperscript{605} Article 19, México: Alcalde y Síndico de Chinameca, Veracruz, amenazan a periodistas, March 31, 2014; Diario Presencia, Y siguen las amenazas..., April 4, 2014.


\textsuperscript{607} Article 19, ALERTA: La casa del Director General de ARTICL 19 es allanada, March 17, 2014; Aristegui Noticias, Allanan la casa del Director de Artículo 19; solicita protección, March 18, 2014.

\textsuperscript{608} The journalists had arrived on the scene to document a road accident between a passenger vehicle and an Army patrol. Apparently this upset the military, who threatened to "disappear them." The journalists filed a complaint with the Office of the Attorney General in Tamaulipas. Article 19, FEADLE obligada a investigar
405. The editor for the El Buen Tono newspaper edited in the state of Veracruz, Marta Durán de Huerta, contributor to the Proceso magazine and correspondent for Radio Nederland, May of 2014, the director for the El Veraz newspaper, edited in Xalapa, state of Veracruz, Claudia Guerrero, July 29, 2014; director for the weekly Tinta Verde, Ignacio Domínguez, in Xalapa, state of Veracruz; journalist Karla Janeth Silva Guerrero, correspondent for the newspaper El Heraldo in León, in the municipality of Silao, state of Guanajuato; correspondents for the magazine Era, in the state of Veracruz; journalist Margarito Juárez, reporter for the police section of the newspaper Página 24 and for channel Canal B15, in the city of Fresnillo, state of Zacatecas; SinEmbargo news portal; journalist Juan Manuel Auzua, program director for Guardian of the Night ‘El Guardián de la noche’ on station Radio 92.7 FM; Spanish journalist Melchor Miralles, former Portuguese journalist Melchor Miralles, former correspondent for the police section of the newspaper Página 24 and for channel Canal B15, in the city of Fresnillo, state of Zacatecas; correspondent for the newspaper, edited in the state of Veracruz; journalist Juan Manuel Auzua, program director for Guardian of the Night ‘El Guardián de la noche’ on station Radio 92.7 FM; Spanish journalist Melchor Miralles, former correspondent for the police section of the newspaper Página 24 and for channel Canal B15, in the city of Fresnillo, state of Zacatecas;
director of *El Mundo TV* and columnist for the Spanish newspaper *ABC*, in the city of Tapachula, state of Chiapas, on November 1, 2014.618

During 2014 there were also reports of assaults and harassment against national and local journalists in Iguala, state of Guerrero, allegedly by the so-called ‘falcons’ (individuals used by organized crime to report the goings on in the city) that took pictures of them and followed them on foot and on motorcycles.619 This happened within the context of the disappearance of the Ayotzinapa students. The Commission learned of a video where alleged federal police officers in the state of Guerrero used firearms to threaten television journalists who were travelling in a truck in the Cocula municipality on their way to a clandestine grave.620 The Ministry of the Interior issued a press release stating the perpetrators of the attack were officers from the Intelligence and Investigation Division of the Federal Police who were working undercover in the alleged arrest of one of those responsible for the disappearance of the students from Ayotzinapa.621

In 2014 the Commission granted precautionary measures to the members of the *Contralínea* magazine after considering “rights to life and personal integrity of the identified members” of the magazine “face a situation of risk.”622 The alleged events occurred on April 18, 2014 when unknown persons broke into the private residence of *Contralínea* director Miguel Badillo, while on June 23 unknown individuals ransacked the magazine facilities. These individuals stole computer equipment and audio and recording equipment from the media outlet office. The magazine had reported several attacks as of 2007, possibly due to its editorial line.623

The Commission also learned about the case for magazine *Luces del Siglo* edited in the municipality of Cancún, state of Quintana Roo, it was victim to systematic cloning of print and online issues.624 The Quintana Roo government denied participation in cloning the magazine.625 Based on the complaint, in October a
federal judge ordered to the governor Borge and three main collaborators to cease the “defamation” against the owner of the magazine. On October 1, the spokesperson for the State Government gave statements to the media claiming the weekly cloned itself with the alleged goal of extortion against the State and to play the victim in order to gain publicity.

409. The IACHR also learned of different attacks, threats and detentions against journalists and directors of the Noroeste newspaper in the state of Sinaloa. Although the newspaper was a victim of attacks in years past, they especially increased in 2014.

3. Impunity

410. After their visit the IACHR was able to confirm the general impunity context that exists in Mexico and that crimes against journalists are not the exception. According to the Committee to Protect Journalists (CPJ), Mexico is ranked 8 on

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626 Proceso, Juez federal ordena a Borge cesar “actos de infamia” contra revista, October 7, 2014; NotiCaribe, NUEVA SUSPENSIÓN CONTRA BORGE: Ordena juez federal a Gobernador y funcionarios cesar “actos de infamia” contra dueña de Luces del Siglo, October 7, 2014; Diario de Yucatán, Dan amparo contra el gobierno, October 8, 2014.

627 El Universal, QRoo acusa a semanario de ‘autooclónación’, October 1, 2014; Luces del Siglo. QROO ACUSA A SEMANARIO DE ‘AUTOCLONACIÓN’, October 1, 2014; Aristegui Noticias. Gobierno de Quintana Roo acusa de “autooclónación” a ‘Luces del Siglo’, October 1, 2014; Article 19, Irresponsables las declaraciones de vocero de Quintana Roo: Dario Ramirez, October 1, 2014.

628 For example, on the night of February 23, journalists of the newspaper in the city of Mazatlán received two telephone threats demanding they not publish information related to the drug dealer. The threats occurred after the reporters contacted city officials during an investigation of possible links between municipal police officers with said drug dealer, information that had already been reported by national newspapers. Grupo Editorial Noroeste had filed a complaint with the Office of the Attorney General stating its right to seek protection for the newspaper's facilities and its reporters. On February 24, through the Facebook social network, the newspaper received threats and was accused of its editorial line being involved with an organized crime group. On February 25, two women allegedly guarded by Navy officers, apparently forced a newspaper photojournalist to delete the images he had taken of the building where this drug dealer had been recaptured. They had apparently warned him that if he failed to do so they would take away his photographic equipment. Other citizens were apparently forced to delete their photographs. On March 2, during the coverage of the marches in favor of drug dealer Guzmán Loera, three journalists were allegedly beaten by state and municipal police. The incident occurred in the cities of Culiacan and Guamuchil. The recording equipment of two of them were seized. On March 4, in Mazatlán, while covering a police event, a reporter for the newspaper was arrested and charged by local police for being responsible of criminal acts. The journalist had been in a vehicle identified with the newspaper's name when he was apparently arrested by the police, who took him to a hospital. He was later released. In the first minutes of April 3, the CEO of Grupo Editorial Noroeste, Adrián López Ortiz, was assaulted, beaten and shot in the city of Culiacan. Lopez was traveling in his car when he was obstructed by another car while a van blocked his path. Youngsters who got off the van hit him and stole his belongings, and one of them shot him in the leg. The Office of the Attorney General of Sinaloa was quoted as saying that this attack might be a robbery, but López Ortiz and human rights organizations recalled the series of attacks against the daily's staff. On September 28, Mazatlan municipal police arrested Iván Lizárraga, a photographer for the newspaper, and after threats apparently forced him to delete pictures that the photojournalist had taken of an operation in which police officers apparently entered a house without a search warrant. The agents handcuffed the reporter and took his personal data. Lizárraga filed a complaint with the Office of the Attorney General of the State. The newspaper has received threats and attacks before. In 2010, for example, gunmen fired high-powered weapons against their facilities.
impunity and is the country in Latin America with the highest rate of impunity for crimes against these professionals.629

411. In 2013 the National Commission on Human Rights issued General Recommendation 20, wherein it analyzed 145 cases of attacks on journalists (homicides, disappearances and attacks on media outlets). Only in “27 cases (19%) did the local, state and federal prosecutors report taking the necessary preliminary action630 and the judge assigned to the case issued a conviction in only 14 cases (10%), and the criminal action was dismissed in two cases,631 11 of these have not been disposed, in addition to the 118 cases that have not been indicted, which means there is a considerable 89% that lie in impunity.”632

412. Both the Commission and the Court have made reference to the repercussions intimidation against journalists has on both other media professionals and on the citizens who are interested in reporting abuse of authority or illegal activity of any kind.633 This intimidation factor may only be avoided by “decisive action by the State to punish those responsible, as required by international and domestic law.”634

413. In this regard and within the context of impunity in Mexico the existence of an adequate institutional framework with sufficient resources is crucial to a State’s ability to investigate, prosecute and punish crimes against journalists. The State has the obligation to guarantee that institutional frameworks are not designed so

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629 According to the Index there are “0.152 unsolved journalist murders per million inhabitants”. Committee to Protect Journalists (CPJ). CPJ’s 2015 Global Impunity Index spotlights countries where journalists are slain and the killers go free. Available at: https://www.cpj.org/reports/2015/10/impunity-index-getting-away-with-murder.php

630 United Mexican States. Código Nacional de Procedimientos Penales. Article 134. En cuanto aparezca de la averiguación previa que se han acreditado el cuerpo del delito y la probable responsabilidad del indiciado, en los términos del artículo 168, salvo en los casos previstos en este Código y demás disposiciones aplicables, el Ministerio Público ejercitará la acción penal ante los tribunales y expresará, sin necesidad de acreditarlo plenamente, la forma de realización de la conducta, los elementos subjetivos específicos cuando la descripción típica lo requiera, así como las demás circunstancias que la ley prevea.

631 Terminating proceedings means the process is completed before sentencing without the judge hearing the merits of the case.


as to lead to or even promote impunity when these crimes take place.\textsuperscript{635} Likewise, the State must ensure that the agencies responsible for investigating, trying and punishing those responsible for these crimes work under the conditions necessary to do their jobs.\textsuperscript{636}

414. As the IACHR has noted on other occasions, in order to prevent violence against journalists and media workers, it is indispensable for legal systems to punish this conduct in a manner that is proportional to the damage committed. In a more general sense, Article 2 of the American Convention requires States to adopt legislative or whatever other measures that may be necessary to make the rights and freedoms recognized in the treaty effective.\textsuperscript{637}

415. The Commission recognizes the efforts made by the Mexican State to address the situation on impunity; these have been manifested in legislative reform and the creation of investigation units. For example, the Federal Criminal Code was reformed to include in the general rules for punishment to be increased by one third of the sentence when a crime is willfully committed against a “journalist, person or facility with the intent to affect, limit or undermine the right to information or freedom of expression or print.” The Federal Criminal Code also establishes that in these cases the sentence may be increased by one half of the period of incarceration if the crime is committed by “a public official in the course of business” or “if the victim is a woman and gender coincides with the commission of the crime.”\textsuperscript{638}

416. In 2010 the rapporteurs for freedom of expression for the OAS and the UN recognized the importance of the creation of the Office of the Special Prosecutor for Crimes against Freedom of Expression [\textit{Fiscalía Especial para la Atención de Delitos cometidos contra la Libertad de Expresión}] (FEADLE) in the PGR, however they noted the need for political will in order to strengthen it and give more autonomy to the local PGRs, as well as strengthening the capability of action public agencies for human rights have.\textsuperscript{639} Due to the ambiguous and deficient jurisdiction of FEADLE, recommendations were also made to make the necessary reforms in


\textsuperscript{638} United Mexican States. Código Federal de Procedimiento. Article 51.

order to "allow the exercise of federal jurisdiction on crimes against freedom of expression."\textsuperscript{640}

417. Complying with said recommendations, in May of 2013 the National Congress passed legal reform wherein it changed several federal laws to regulate Federal Public Prosecutor jurisdiction\textsuperscript{641} and that of the federal justice system to prosecute and adjudicate crimes against journalists, persons or facilities that: “affect, limit or undermine the right to information or freedom of expression or of the press.”\textsuperscript{642} Said reform had as its objective to overcome the legal barrier that FEADLE had to assume jurisdiction and be more effective in solving cases that may be related to the exercise of journalism.

418. According to the information the IACHR has been able to gather through monitoring tools and the \textit{in loco} visit, as well as information received directly by the entity, since the reform was passed, FEADLE has exercised jurisdiction in 40 cases for different crimes against journalists. Between December 1, 2012 and August 31, 2015, FEADLE has opened 458 preliminary actions and has decided on 337 of them. It decided there was lack of jurisdiction in 176 of those cases and indicted in 53 of the cases (the case was brought by FEADLE before a judge which does not mean there was a conviction).

419. The IACHR has reiterated that the murder of journalists constitutes the most extreme form of censorship and that States have the affirmative obligation to identify and punish the perpetrators of those crimes. Within the investigations initiated by FEADLE, after obtaining the authority to absorb investigations of serious crimes against freedom of expression, 24 were for murders perpetrated against journalists; however, the entity claimed lack of jurisdiction in 11 cases,


In this sense, the reform provides, inter alia, that the power of attraction of the federal authorities shall be exercised in cases where the intent of the author is presumed and at least one of the following circumstances concur: (i) where there is indication that a state or municipal public servant has participated in the offense; (ii) where the victim has stated in the complaint that a state or municipal public servant is the alleged perpetrator; (iii) in the case of serious offenses thus qualified by law; (iv) where the life or physical integrity of the victim or injured party is in real danger; (v) when requested by the competent authority of the federal state; (vi) where the acts constituting the offense impact the exercise of the right to freedom of expression in a transcendent way; (vii) when in the federal state in which the offense took place or its results were manifest there are objective and widespread circumstances of risk to exercise the right to freedom of expression; (viii) when the act constituting the offense goes beyond the scope of one or more federal states; or (ix) when a judgment or decision of an organ provided for in any international treaty to which the Mexican State is a party has determined the international responsibility of the Mexican State, by default or omission, in the investigation, pursuit or prosecution of these offenses.
indicted in one case and in only seven of those homicides FEADLE assumed the investigation. These cases remain pending.643

420. According to the procedure established by FEADLE, when information about an attack on a journalist is received affidavits are taken immediately, this allows for a later determination on preliminary action. The PGR with state jurisdiction may simultaneously open an investigation; if such is the case FEADLE works in parallel in attempts to identify those responsible. Another possible avenue is what is known as third-party assistance (coadyuvancia), whereby the FEADLE works side by side with the regular prosecutor to ensure it is working within freedom of expression standards.

421. In that context, during the in loco visit, the prosecutor in charge of FEADLE reported that when common jurisdiction takes the case before a state judge, FEADLE may no longer exercise jurisdiction because double jeopardy attaches. In these cases, and under this interpretation, the special prosecutor is limited to follow-up on the case. However, the IACHR also met with other justice operators during its visit, and when asked about this interpretation, these operators indicated that this interpretation is not a firm jurisprudential precedent or a majority doctrine in the country.

422. Regarding this, the Commission recalls: “a lack of cooperation and coordination between local and national agencies that pursue criminal prosecutions can present an additional obstacle to obtaining justice in these cases.”644

423. The Commission also observes that in crimes against journalists, the lack of specific investigation protocols to apply in cases that involve possible retaliations for the exercise of journalism and the alleged lack of judicial independence allow impunity to be ever higher, to the point that it becomes a structural flaw in the administration of justice. The Commission has confirmed the lack of investigation lines related to the exercise of journalism, in some cases this hypothesis is not even invoked, and in other cases it is not exhaustively investigated before being discarded. The Commission has noted that one of the contributing factors to impunity is the lack of protocols requiring authorities to exhaust the line of investigation regarding the exercise of the profession; this presents an obstacle to the criminal prosecution and does not include the identification of masterminds.645

424. In this regard the Commission took note of the statement made by FEADLE during the in loco visit, asserting they are working on an investigation protocol for crimes against journalists, with the object of directing the prosecutors to ensure that the

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first hypothesis for the investigation when the victim is a journalist is the victim’s profession as a journalist. On this point, in its observations to the draft of this report, the State notified the IACHR that it is in the process of reviewing, publishing and authorizing (i) the acting Protocol regarding the first lines of investigations in cases related to journalism; (ii) Protocol for the accompanying of journalists; (iii) Manual for the Prevention of Crimes Committed against Freedom of Expression; (iv) Basic Guide for the investigation of murders committed against journalists; (v) Practical Manual for Ministerial investigations; and (v) Protocol for High-Profile Crimes.

425. After the in loco visit, the Commission and the Special Rapporteurship are concerned about the practice to not exhaust the investigation line related to the profession, as this sends a message of justice by proxy. This omission creates a barrier to reaching the masterminds, only accomplishing perpetrator convictions, allowing for a reduction in impunity statistics and sending a mixed message to society since there is no explanation to what actually took place.

426. Another cause for impunity that the Commission and the Special Rapporteurship have noted in crimes against journalists, especially in a context such as Mexico’s, is the wrongful influence of organized crime over the judicial system and police officers with illegal pressure to change the course of investigations.

427. The IACHR understands and recognizes the efforts the State of Mexico has made to adapt legislation and institutions to respond to the challenge that is impunity. Nevertheless the reforms are inefficient when in practice there is no response to the public clamor for justice for the victims and society on the whole, and in fact quite the opposite occurs as impunity rises within the context of constant attacks on journalists. When those who assault journalists go unpunished, the wrong message is sent and journalists and communicators are left unprotected.

4. Violence against Women Journalists

428. The Special Rapporteurship for Freedom of Expression has compiled information about distinctive characteristics found in the violence against women journalists, in this regard during the visit the IACHR received testimony from civil society organizations that have taken great effort to document and expose the situation in Mexico for women journalists. According to the information provided by the organizations although violence against journalists has risen in the last few years; violence against women journalists has increased by percentage at a higher rate than the violence against male journalists. Many of the attacked journalists cover

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political matters and have denounced corruption; in addition, in many cases the violence was psychological in nature.  

429. On the other hand, the IACHR also received information regarding the lack of the gender approach to the protective mechanism of human rights defenders and journalists, although the law for this mechanism enshrines the approach. The IACHR met women beneficiaries who were granted protective measures without taking women’s needs into account, for example bullet proof vests are set for the male anatomy and therefore the women are unable to use them. It also learned of cases where the public officials for the mechanism have stigmatized the beneficiaries based on their gender. In addition the IACHR learned about prosecutorial authorities that re victimize women when they file a complaint, or consider their complaints are unimportant and even make the victims feel judged by the officials themselves.

430. The Special Rapporteurship has noted “the importance of taking account of gender in the study of violence against journalists and the identification of strategies to eradicate it is reinforced by the obligation of the States to combat discrimination and violence against women with due diligence.” As the IACHR has recognized ‘violence is one of the most extreme and common forms of discrimination’ as it severely impedes and annuls women’s exercise of their rights, including the rights to life and personal integrity. Effectively the Inter-American system has highlighted the strong connection between the issues of discrimination and violence against women. An example of this can be found in the provisions of the ‘Convention of Belém do Pará,’ which establishes that all women have the right to a life free from violence, to be free of all forms of discrimination, to be valued and educated free from stereotypical patterns, to equal protection before the law and of the law, and to have a simple and quick remedy available through the competent courts when their rights are violated.”

C. Mechanism for the Protection of Human Rights Defenders and Journalists

431. Through different IACHR monitoring mechanisms, including precautionary measures, the Inter-American Commission has been closely following State efforts and implementation for the protection of persons at risk; within the context of serious violent acts human rights defenders and journalists have been facing in Mexico over the past several years. The Commission especially recognized that in 2012 Mexico became the second country in the region to adopt a specialized


protective mechanism for human rights defenders and journalists.650 These significant initiatives and procedures included passing the “Law for the Protection of Human Rights Defenders and Journalists” [Ley para la protección de Personas Defensoras de Derechos Humanos y Periodistas]651 that went into effect in June of 2012. Within the legislative framework of that law and its implementation, the State has been meeting its duty to protect, promote and guarantee the human rights to “life, humane treatment and safety for those at risk as a consequence for defending or promoting human rights and the exercise of freedom of expression and journalism.”652

432. Moreover, information has been received regarding the high number of persons who resort to the mechanism in order to request protection and a considerable number of persons that are actually protected by it; including beneficiaries of IACHR precautionary measures. According to information provided by the State, the mechanism has 463 beneficiaries, 190 journalists and 273 human rights defenders.653 In this regard the Commission notes the willingness of the State to adopt material protective measures. Without prejudice to the preceding or to the important advances that have been noted, the Commission received consistent information both prior to and during the visit, from civil society, beneficiaries of precautionary measures and the United Nations system,654 on a series of shortcomings in the operation of the mechanism. According to the testimony and information received, there is considerable distrust of the efficiency of the mechanism due to some identified issues and violent acts people under the protective mechanism continue to face. This has created additional difficulty when a person makes the decision to request admittance into the program, they are subject to established procedures or limited to protective measures to be implemented.

1. Legislative Framework on Protection and its Implementation

433. According to reports the Law for the Protection of Human Rights Defenders and Journalists and its corresponding regulation guide the protective mechanism.655 The main structure for the mechanism is a Government Board (the Mechanism’s highest body and primary decision-making body), A Consultative Council and a

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National Executive Coordination Group, all operating under the Ministry of the Interior.\textsuperscript{656}

434. In its observations to the draft of this report, the Mexican State reported that in the implementation and operation of the protection measures, to June 2015, a total of 68.9 million Mexican pesos (approximately 4.2 million U.S. dollars) had been spent by the Fund for the Protection of Human Rights Defenders and Journalists. As of November 30, the Fund had a remaining patrimony of 331.8 million Mexican pesos (approximately 20 million U.S. dollars).\textsuperscript{657} The Mechanism has 34 authorized sites to carrying out its work.\textsuperscript{658} In this regard, members of civil society have indicated that the budgetary allocation is not up to par with the needs of the Mechanism, which they claim shows the low political support that is being provided to the Mechanism.\textsuperscript{659}

435. The Inter-American Commission considers the Law for the Protection of Human Rights Defenders and Journalists, as well as the general policy and protective procedures implemented by the State, have the purpose of responding to the serious situation of violence human rights defenders and journalists have been facing. In this regard the IACHR wishes to recognize among other efforts, those made and the existence of a specific legislative framework that includes the gender approach, the participation of the Government Board community of human rights defenders and freedom of expression, the repertoire of material measures, in accordance with the respective regular and extraordinary proceedings.

436. Over three years after the Law was passed, in spite of the identified advances, the Commission has learned about serious obstacles threatening the effectiveness of the mechanism and the application of the Law. Several of these difficulties are related to the lack of financial resources for the operation of the institution and for financial sustainability in the long term, constant personnel training in order to guarantee effective operation of the mechanism; an appropriate distribution of power and operating procedures; deploy strategies for different state and federal agencies work in a coordinated manner at all levels (some lack political will to participate). Since the inception of the mechanism these challenges have been of great concern to the United Nations System.\textsuperscript{660}


\textsuperscript{657} Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015, p. 70.

\textsuperscript{658} According to the information provided by the Mexican State in September 2015, the balance of the trust as of August 31, 2015 was 238,083,567.44 Mexican pesos (approximately 16,990,700 U.S. dollars). Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.


437. The IACHR considers it is important to note, “the States must adopt rules clearly spelling out the authorities and responsibilities of the officials who will play a role in either implementing or monitoring the protection measures. Likewise, law must prescribe the powers that the officials have for those purposes.”\(^{661}\) In this regard, for the Commission it is fundamental for the application of any legislative framework to be "sufficiently staffed with personnel trained in receiving requests for protection, evaluating the risk, adopting the measures of protection, [...] monitoring them to make certain they are still being enforced."\(^{662}\)

2. **Advances and Challenges in the Implementation of Material Protective Measures**

438. The Inter-American Commission has been following the implementation of the protection program in Mexico. During the State hearing “Human Rights Public Policy and Good Practices in Mexico” requested by the State and taking place on March 27, 2015 during the 150 Period of Sessions of the IACHR, the State reported that the mechanism would have significant budget appropriation and technical assistance for international entities specializing in freedom of expression. It added that 165 requests to join the mechanism were made, 31 agreements have been reached with 31 States of the Republic in order to provide collaboration and coordination with the protective measures and 211 measures have been issued to protect 238 people.\(^{663}\)

439. In the mechanism implementation framework, the Commission received information that the non-governmental agency Freedom House in Mexico accompanied the National Executive Coordination Group \([\text{Coordinación Ejecutiva Nacional}](\text{CEN})\) of the protective mechanism during 2014. A work plan was generated on the basis of this cooperation, which included, among other things, technical strengthening in three areas where methodologies needed to be adjusted: risk evaluation, processes and procedures of the National Executive Coordination Group, and lastly measures related to the Risk Evaluation and Risk Level Assessment Protocol.\(^{664}\) In its observations to the draft of this report, the State specified that the strengthening process carried out with Freedom House has taken place in three phases. The first was dedicated to improve the methodology and internal procedure of the mechanism, which was able to overcome the backlog in the analysis of cases and took place through 2014; the second phase had as its objective of make protection measures more effective and include a gender perspective in their adoption, as well as training the mechanism’s personnel throughout 2015; and, the third phase, which is still ongoing, tends to establish a


\(^{664}\) United Mexican States. Permanent Mission of Mexico to the OAS. Note No. OEA-02252 to the Executive Secretariat of the IACHR. May 28, 2014. Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression.
program for the prevention of violence against journalists and media workers. The activities that have been announced include the creation of a Prevention Unit within the mechanism and a process for the formation and training to strengthen the capabilities of the staff.\footnote{Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015, p. 70-71.} The IACHR recognizes and welcome the efforts of the Mexican State to solve the difficulties that arose at the beginning of the implementation of the protection mechanism.

440. Despite the advances, the IACHR has received information regarding serious deficiencies in the operation of the program. One of the persistent issues seen by civil society is the inconsistency in data regarding mechanism coverage. According to civil society data between October 2012 and December 1, 2014 the mechanism received 123 requests for protective measures to human rights defenders, and only 95 for journalists.\footnote{Espacio OCS, “Diagnóstico sobre la implementación del Mecanismo Federal de Protección a personas defensoras y periodistas”, July 28, 2015, p. 40.}

441. National organizations that have followed the mechanism have assured that one of the components that affect implementation in a crosscutting manner is the lack of transparency and accountability, “just as zero interest in having a proactive dissemination strategy.”\footnote{Espacio OCS, “Diagnóstico sobre la implementación del Mecanismo Federal de Protección a personas defensoras y periodistas”, July 28, 2015, p. 40.} Under these circumstances they maintain that the high number of acts of violence, threats and harassment to different human rights defenders, journalists and related organizations is not at the same level as the number of cases received by the mechanism.\footnote{Espacio OCS, “Diagnóstico sobre la implementación del Mecanismo Federal de Protección a personas defensoras y periodistas”, July 28, 2015, p. 70.}

442. Some persons under the protection of the mechanism informed the IACHR on the shortcomings in the provided protective measures. For example, some of the measures include panic buttons and satellite phones. The people living in isolated areas, rural and mountainous – predominately indigenous peoples- report that these measures are not very useful since they are in isolated areas where it would be difficult for the police to respond to a panic button and the satellite phones barely work because of the topography in the area.\footnote{Information received from civil society organizations during the on-site visit to Monterrey, Nuevo León, on September 29, 2015.} In addition, some organizations lament the lack of capacity the mechanism has to offer protection to collectives of people at risk. The IACHR urges the Mexican authorities to put concrete measures in place taking the specific circumstances of each person into account in order to better offer effective protection.

443. Regarding the panic buttons, the Governing Body explained to the Commission that for the device to work correctly – which is by means of a cellular telephone line directly connected to the mechanism and the security company contracted for this purpose-, it must remain turned on with the battery sufficiently charged. The equipment is provided by private companies contracted by the mechanism.\footnote{Espacio OCS, “Diagnóstico sobre la implementación del Mecanismo Federal de Protección a personas defensoras y periodistas”, July 28, 2015, p. 40.}
However, the Governing Body recognized that in some federative entities it has been difficult to coordinate with the local authorities so that they would support the protected persons in case of emergency, given that it is those same authorities who have generated the risk. The IACHR views with concern the difficulties involved in this type of measure to effectively provide protection, along with observing the need to have tools for follow-up on the measures implemented.

444. According to the announcement by the State through the Observations to the draft of this report, the first evaluation of emergency buttons will take place in January 2016. The analysis will be presented to the Government Board along with a proposal to address the problems identified. The methodology announced by the State will contemplate collecting information from different sources, such as the beneficiaries themselves, the implementation periods, the reports of the company that provides the infrastructure, on-site observation, and the application of indicators developed in 2015 with the UN Office of the High Commissioner for Human Rights. The IACHR welcomes the announcement made by the State, in the sense that in 2016 the principal measures utilized by the Mechanism will be evaluated.

445. Regarding risk assessment and the implementation of material protective measures, members of civil society have manifested: i) there is considerable delay in risk assessments and the personnel assigned to this task is minimal; ii) there are no specific protocols in place for the analysis and implementation of material protective measures, to include the gender and indigenous peoples approach, among others; iii) multiple instances and lack of coordination among the different institutions in charge of supporting the protective measures and their follow up; iv) challenges on more specific data on the number of cases received, length of the procedures, as well as information on the main reasons for deciding not to process or to reject some cases; to name a few of the issues raising deep distrust by civil society and the people protected by the program.

446. The Governing Body stressed that in recent months the response times for applications have notably improved and has recognized that although in the beginning the mechanism faced serious problems in responding to the applications, after the process for strengthening that the mechanism carried out advised by the Freedom House organization, this is one of the aspects in which the

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673 Peace Brigades International, Observaciones “¿Qué hace falta para la cabal implementación del Mecanismo?” August 18, 2015.
most progress has been observed. As part of the strengthening process with the above-mentioned organization, processes and procedures were established so that the operability of the mechanism would work in a much more optimum fashion.676

447. In this same manner the Commission observes with concern that said shortcomings have also affected human rights defenders and journalists who are beneficiaries of the precautionary measures issued by the IACHR and provisional measures issued by the Inter-American Court. In the meetings held with beneficiaries for the IACHR visit to the country and in working meetings held at Commission headquarters in 2015, on precautionary measures issued related to Mexico, the Commission learned of a series of alleged shortcomings in the implementation of material protective measures for the beneficiaries, where there have been issues at the time of matching said measures to the creation of the protection program adapted to each individual.677

448. Based on these concerns the Commission believes it is important to reiterate to the state that it “must guarantee adequate communication and active participation in risk assessment”678 by the people who are being protected or the beneficiaries of precautionary measures. Thereon it is necessary for all related procedures – including intake of individuals into the program, risk assessment, the implementation of material protective measures, among others - occur as quickly as possible taking appropriate action in light of the fact that life and humane treatment are at risk. Likewise, and according to each individual situation, the Inter-American Commission wishes to recall that every implemented protective measure must be adapted, since it must be appropriate to protect the at risk individual, and must also be effective as it should produce the expected results.679

In correlation to the aforementioned, the States must design policies that allow for monitoring the effectiveness of the measures and a constant follow up on its implementation, as it relates to the risks the beneficiary may face.680

449. The Commission has stated: “States have an obligation not only to protect at-risk journalists, but also to guarantee that the protective measures adopted are effective and adequate. In this sense, when measures are adopted to protect journalists from the credible threat of damage to their physical integrity, the

677 During the 154th session of the IACHR in Washington DC, on March 21, 2015, the Commission held two meetings in connection with precautionary measures MC 252-14, related to members of Contralínea magazine, and MC 185-13, regarding the human rights defender Sofia Lorena Mendoza and others.
measures must take into account the needs specific to the profession of the beneficiary, the beneficiary's gender, and other individual circumstances."^{681}

450. On the other hand the Commission wishes to draw attention to people who, although they are part of the protective mechanism, have IACHR precautionary measures and Inter-American Court protective measures, continue to be threatened, intimidated and be victims of violence. For example, during 2014 and 2015 the Commission has continued to receive information about serious at-risk situations program beneficiaries face, among them journalists,^{682} human rights defenders,^{683} indigenous leaders,^{684} and others.

451. The Inter-American Commission considers it of utmost importance for the State to double its efforts in order to guarantee the effective protection of beneficiaries under the protective mechanism, within the framework of the concerns expressed in this chapter. In this regard the IACHR wishes to underscore that the evaluation of the effectiveness of a State protective measure rests on the efficiency it has to reduce violence against the current program beneficiaries.

3. Investigation as a Means of Identification and Removal of Risk Factors, and to Prevent Repetition

452. The Commission has taken note of the denunciations made by members of civil society, people under the protective mechanism and precautionary measures beneficiaries who have noted the existence of ongoing threats, harassment and acts of violence they continue to face, regardless of being beneficiaries of protection programs.

453. As it has been considered regarding other contexts and protection programs in the region,^{685} the Commission considers as priority that the protection mechanisms articulate with the corresponding investigation units, in order to determine the risk sources as well as to identify and sanction possible perpetrators. The advance in the investigations will allow, in addition, complement the effectiveness of the protection measures adopted, and deactivate the elements that put at risk the persons who are protected under these programs.

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^{681} IACHR, *Violence against journalists and media workers: Inter-American standards and national practices on prevention, protection and prosecution of perpetrators*, December, 2013, para. 72.


^{683} Within the context of the precautionary measures granted (MC 77-15) in favor of defenders "E" and "K", the Commission has received information provided by the State, of April 27, 2015, and the petitioners (CMDPDH), of August 4, 2015, on alleged new risk situations.

^{684} Within the context of the precautionary measures granted (MC 452-13) in favor of leaders of the Yaqui people, through a report dated July 23, 2015, they have continued to provide information on alleged new risk situations.

454. The Inter-American Commission recalls "the most efficient medium to protect [...] is to efficiently investigate acts of violence and punish those responsible," and therefore calls upon the State to conduct exhaustive independent investigations on attacks to people in protection programs, including those who are beneficiaries of IACHR precautionary measures, whose at-risk situation is constantly renewed by virtue of the patterns of violence that gave rise to the measures and entering the protective mechanism in Mexico.

455. The IACHR received information about the creation of local mechanism of protection, as for example the Commission for the Care and Protection of Journalists in Veracruz. The Commission for the Care and Protection of Journalists was created in 2012 by Law 586 and began operating in January 2013. According to the provisions of said law, the aforementioned Commission is an independent state body, a legal entity with its own resources, technical autonomy, budget and management; tasked with protecting the humane treatment of journalists and fostering conditions for the exercise of freedom of expression. Some of the Commission activities are: intake and analysis of the cases presented before it, taking action to prevent risks, journalist and public official training, as well as entering into agreements with strategic actors.

456. According to the information provided by the Commission for the Care and Protection of Journalists itself, from January 2013 to September 2015, sixty-nine cases were opened wherein it was determined in 25 of them the risk was moderate, 22 of them were at high risk, and 11 were at extremely high risk; to date 46 of the protection cases are still in effect. The files were 67% men and 33% women.

457. After the visit in loco the IACHR had notice that according with the announcement made by the State, the Government Secretariat on November 3th created the early alert system and contingency for the protection of journalists in Veracruz, it is about a program of public policies and the objective is avoid acts of attacks to journalists. The system was adopted by request of a group of journalist and by the Federal Mechanism of Protection to Journalists. This was adopted according with the diagnostic of civil society organizations, the Special Rapporteur of freedom of expression, the office of the High Commissioner for Human Rights-UN; with this mechanism the State recognize that Veracruz is the federal state with the highest number of journalists murdered with Chihuahua and the second with the number of people protected by the federal mechanism of protection.

458. The program includes 13 actions to complete during twelve months, and each one has an indicator. The categories of actions are: i) Respect the right of freedom of

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expression; ii) risk map; iii) journalist protection; iv) straight and follow up the ministerial investigations; v) training of government officials; vi) streamline the auto protection of journalists; vii) conditions of work for journalists; viii) immediately respond measures; ix) program evaluation.

459. The Commission considers as an important step the official recognition of the difficult situation that journalist from Veracruz are facing and hope that all the authorities involved, federal as well as local ones, carry out their obligations, and at the same time expect that journalist as civil society would participate in an active and effective roll with guarantees during the development and monitoring of the early alert system.

460. Without prejudice to the foregoing, the Inter-American Commission was able to see the protective mechanism for Veracruz faces the challenge of earning the trust of a great part of the media, especially those journalists who are critical or work in alternative media outlets. In addition, the government must guarantee financing for it and autonomy from the government in the long term.
CHAPTER 6

THE STATE’S RESPONSE
A. **Advances and Reforms**

461. The Commission appreciates the measures the State has taken regarding human rights. Particularly, the Commission recognizes the important human rights reforms that have been adopted in Mexico since 2011. The IACHR recognizes the amendment of various articles of the Constitution, which establish that in Mexico all persons shall enjoy the human rights enshrined in the Constitution and in the international treaties of which Mexico is a Party, as well as the guarantees for their protection. Similarly, the Commission notes the decision of the Supreme Court of Justice, which limits military jurisdiction in cases in which members of the armed forces commit human rights violations against civilians, as well as the decision that established the authority of all courts in the country to undertake conventionality control.

462. The Commission also welcomes the adoption of the new *Amparo* Law published in April 2013. In January 2013, the General Law of Victims was published and, although it is a positive step, the Commission has been informed of the need for an integral revision of the National System for Attention to Victims, in order to comply effectively with the law’s mandate.

463. In addition, the Commission recognizes the approval in 2012 of the Mechanism for the Protection of Human Rights Defenders and Journalists, examined in the previous chapter. The IACHR highlights its importance and invites the State to continue its efforts to ensure its strengthening to face the various challenges in its implementation.

464. The IACHR also salutes the National Human Rights Program 2014-2018 (PNDH), which entered into force on April 30, 2014, and has as its principal objective achieve the effective implementation of the constitutional reforms regarding human rights. The Commission invites all federal entities to adopt a human rights program at the state level.

465. Similarly, the IACHR salutes the approval of the General Law for Children and Adolescents in 2014. The promulgation of this law represents an important advance in the protection of children in the country since this is the first time the legal framework that creates a National System for the Internal Protection of the Rights of Children. The President of the Republic will preside this system, which reflects the importance that the matter is being given. It is noteworthy that the new norm foresees inter-departmental coordination mechanisms, as well as mechanisms for coordination among the federal state and municipal levels, with
the goal of achieving a holistic and integral approach to the protection of children. Other positive aspects contemplated in the new law are the creation of a System of Information that will provide the statistical datato monitor the advances in the protection of the rights, as well as the provision that policies regarding children will be evaluated by the National Council for the Evaluation of Social Development Policy (CONEVAL), which gives the system the necessary tools for an adequate design, implementation, monitoring and evaluation of public policies regarding children. The application of this law will require sufficient financial resources for that, which the legislators have taken into account, as they pointed out the need to increase the resources currently allocated to children’s policies, with the goal of complying with the mandate of the new law and to ensure that the National System of Protection works effectively.

466. The IACHR also welcomes the Integral Program to Prevent, Address, Punish and Eradicate Violence against Women 2014-2018.

467. Regarding LGBTI persons, the IACHR highlights as a positive development that on August 18, 2014, the Supreme Court of Mexico adopted a protocol for justice operators in cases involving sexual orientation and gender identity, according to binding and internationally recognized norms regarding human rights. The Law to Prevent and Eliminate Discrimination of Mexico City includes express mentions of terms such as “sexual preference” and “gender identity”. The Mexico City Penal Code criminalizes discrimination, but to date there is no information regarding any convictions for that crime. There are 15 local laws in Mexico City that reference LGBT persons and prohibit discrimination, exclusion or denial of benefits and protect personal information, among others. The IACHR celebrated the entering into force, on March 7, 2015, of a decree that permits the recognition of the identity of trans persons in Mexico City, through an administrative proceeding, as a result of reforms to the Civil Code approved by the Mexico City Legislative Assembly in November 2014. Similarly, on that occasion, the Commission urged Mexico to enact “gender identity legislation, which ensures enhanced protection of trans persons” and “comprehensive measures, in law and policy, to effectively address discrimination and violence against trans persons, particularly those outside the capital.”

690 IACHR, Press Release No. 95/14, IACHR Congratulates Mexican Supreme Court for Adoption of Protocol Involving Sexual Orientation and Gender Identity, August 29, 2014.


692 Press article published in Notiese, Public officials: seven years after the criminalization of discrimination there are no convictions (A siete años de tipificar la discriminación como delito no hay sentencias: funcionarios), November 4, 2013.


468. The Supreme Court of Mexico has also constituted protocols regarding various human rights issues for judicial authorities. Specifically, in 2014, the SCJN published the Protocol for justice operators in matters involving acts that constitute torture and cruel treatments. The IACHR considers the protocol a commendable advance towards the investigation, punishment and eventual prevention of torture and other cruel, inhuman or degrading treatments, and to combat impunity when such acts take pace, while following the standards established in the Istanbul Protocol. In that regard, the IACHR was informed that the Mexican Attorney General’s Office (PGR) modified its Specialized Medical/Psychological Diagnosis report for cases of Possible Torture and/or Mistreatment in October 2015. It is of utmost importance that these protocols do not remain as mere formalities and juridical aspirations, but rather that they are translated into real changes that guarantee access to justice for victims.

469. The IACHR also welcomes the adoption of the National Program for Social Prevention of Violence and Crime (2014-2018), and particularly the progress made in reducing violence in the municipalities where it has been implemented. The State reported that in municipalities with populations over 100,000 where the program has been implemented, rates of violence have reportedly dropped by more than 30%. Civil society organizations have stated that the decrease in violence is less than that.

470. The IACHR also recognizes as a step forward the signing of the Collaboration Agreement to Create a Forensic Commission to Identify Remains, signed in 2013 by the PGR and civil society organizations. The aim of the agreement is to cooperate with the PGR to identify and determine cause of death in the case of remains located in clandestine graves in the states of Tamaulipas and Nuevo León. Since the Forensic Commission was created, it has identified the remains of 22 migrants.

471. Along the same lines, the IACHR also received information from civil society organizations and from the State about some initiatives that have yielded positive results regarding the search for disappeared persons. For example, in Nuevo León, with the creation of the Special Groups for Immediate Search (GEBI, their Spanish

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695 The full list of protocols published by the Supreme Court can be accessed at: https://www.scjn.gob.mx/–libreria/paginas/protocolos.aspx


698 Collaboration Agreement for the identification of remains found in San Fernando, Tamaulipas and Cadereyta, Nuevo León which will be carried out through a Forensic Commission, entered into by the Attorney General’s Office, the Argentinean Team of Forensic Experts; the Committee of Relatives of Migrants who have Died or Disappeared from El Salvador; the Committee of Relatives of Migrants from El Progreso; the Foundation for Justice and the Democratic Rule of Law; the House of the Migrant from Saltillo, Coahuila; the Diocese Center for Human Rights Fray Juan de Larios A.C.; the Civil Association Mesoamerican Voices; Human Rights Center Victoria Diez, A.C.; and the National Forum for Migration in Honduras. Published in the Federal Official Gazette of the Federation on April 9, 2013. Available in Spanish at: http://www.dof.gob.mx/nota_detalle.php?codigo=5312887&fecha=04/09/2013
acronym), backed by the adoption of a specific protocol regarding searching for disappeared persons, the state government reported that around 80% of persons reported as disappeared have been found.699 The GEBIs are designed to operate almost immediately upon the report of a disappeared person, concentrate and systematize information, carry out timely actions in relation to the search, and in many cases they have been able to find the person reported as disappeared alive.700 As it is well known, the actions taken in the first 72 hours after a disappearance takes place are critical for the search and possible finding of the victim. The IACHR considers that this is an example of good practices that could be perfected and implemented in other areas of the country, taking into account the particular characteristics of the different regions and the disappearances’ own circumstances.

472. The IACHR welcomes the fact that, in fulfillment of a recommendation made by this body, the Attorney General has announced that a Special Prosecutor’s Office for Crimes of Violence against Migrants will be created in the first half of 2016.

473. The Commission also recognizes the publication of the National Code of Criminal Procedures in March 2014, which will enter into effect across the country in June 2016. In this regard, the IACHR has received information indicating that some provisions contained in that Code need to be reviewed in light of international human rights standards.

474. In addition, the implementation of the new criminal justice system, which is scheduled to enter into effect nationally no later than June 2016, has shown progress across the country. The IACHR emphasizes that it is important for the State, at every level, to carry out the full implementation of the system as scheduled.

475. In terms of disappearances and torture, the Commission recognizes the Law for the National Registry of Data of Missing or Disappeared Persons, adopted in 2012, and the subsequent National Data Registry created as a result, as a first step in the integration of information on disappeared persons. However, the Commission has received information indicating that this registry needs to be strengthened to produce information that is reliable, which it currently is not, and to make it more functional and include data that is disaggregated by type of disappearance. In this respect, the IACHR welcomes information indicating that in some states, groups on the front lines of searching for missing persons have proved to be capable and have found people alive who had been reported as disappeared.

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699 Information received during the Commission’s visit to the state of Nuevo Leon, September 29, 2015; Information received during the meetings with civil society organizations in Monterrey, Nuevo Leon, September 29, 2015.

476. The IACHR also highlights the constitutional reform of July 2015 that authorized Congress to adopt general laws regarding kidnapping, forced disappearance, human trafficking, torture and other cruel, inhuman or degrading treatment or punishment, among others. The Commission recalls that these laws must comply fully with Inter-American and international standards on the subject. According to the reform decree, Congress shall adopt these laws within 180 days of the decree, and as of the date of approval of this Report, the law had not been approved. The Commission will follow these draft laws closely and with great attention, and expects that they will be consistent with international standards on their respective subjects, and that the contributions of civil society organizations and victims will be taken into account.

477. The Commission also recognizes the signing of an agreement between the Attorney General’s Office and the International Committee of the Red Cross for use of the software license for the Ante Mortem-Post Mortem database, as well as the launch of the Ante Mortem-Post Mortem Database System (AM/PM) as part of the National Plan of Disappeared Persons as of October 26, 2015.

478. The Commission also welcomes the approval, in August 2015, of the Protocols for Investigation of Forced Disappearance and Torture. The Commission was glad to receive information about the creation of a Specialized Prosecutor’s Office for the Search of Disappeared Persons, under the Prosecutor’s Office for Human Rights, Crime Prevention and Community Services of the PGR. Similarly, the Commission welcomes the creation of a Specialized Unit regarding the Crime of Torture within the PGR.

479. The IACHR also values especially the State’s commitment to the Inter-American system and its initiative to devote more attention to the petitions, cases, and precautionary measures of the system, as well as the involvement of the various federal entities in this program.

480. Without prejudice to the advances regarding protocols, codification and laws, the IACHR confirmed a profound gap between Mexico’s legislative and judicial framework, and the daily reality that millions of persons in the country experience in their search for access to justice.

481. The IACHR also recognizes the openness and disposition of the Mexican State in the establishment of the Interdisciplinary Group of Independent Experts (GIEI), at the request of the State and of the representatives of the family members of the students who were disappeared, killed and wounded in Iguala on September 26 and 27, 2014.

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702 Civil society organizations have presented suggestions to the Chamber of Deputies about the need to ensure that the draft General Law to Prevent, Investigation, Punish and Repair Torture comply with international standards on the subject.
482. On November 18, 2014, through a technical assistance agreement between the Mexican State and the representatives of the disappeared students, the parties agreed to “the establishment of an Interdisciplinary Group of Independent Experts on human rights, to carry out a technical verification of the actions initiated by the Mexican State” after the disappearance of the 43 students beneficiaries of precautionary measures.\(^{703}\) During its term, the GIEI has issued four respective reports and a report that was published in September 2015. From the outset, the Group has worked in coordination with authorities and relatives, as well as the students who survived the attacks. The Commission joins the reports presented by the Group.

483. In October 2015, the IACHR decided to extend the mandate of the GIEI at the request of the State, the representatives of the victims, and the GIEI itself, until April 2016. The Commission welcomes the openness of the State so that the technical collaboration between the GIEI and the Mexican State may continue.

B. **Challenges in the Structural Causes of Impunity**

484. The Mexican people consider impunity one of the country’s primary problems.\(^{704}\) According to statistics from INEGI, the majority of Mexicans perceive impunity among the ten most important problems affecting the country.\(^{705}\) Impunity levels in Mexico have been historically high, and the IACHR has received alarming information indicating that as many as 98% of crimes reported in Mexico do not result in a conviction.\(^{706}\) Again and again, the IACHR heard from victims that justice in Mexico is a “simulation,” either because alleged perpetrators are falsely accused or because the authorities do not act with due diligence and their actions do not produce results.\(^{707}\)

485. The biggest problem in terms of access to justice in Mexico is precisely the systemic and structural impunity that affects the country. As mentioned, this leads to an underreporting of crimes, which generates inaccurate statistics and therefore a partial diagnosis of the gravity of violence and criminality in Mexico. During its visit to the country, the IACHR could confirm that the lack of trust in the

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\(^{703}\) In this regard, the IACHR appointed an Interdisciplinary Group of Independent Experts (GIEI) for a period of six months with the following responsibilities: analysis of the plans to find the disappeared persons alive, and where appropriate, to recommend best practices for a more efficient investigation; a technical analysis of lines of inquiry to determine criminal responsibilities; a technical analysis of the Comprehensive Plan for Assisting Victims of the events of September 26 and 27.


\(^{707}\) Testimonies received by the IACHR during meetings with civil society organizations in Mexico City, Veracruz, Guerrero y Nuevo León.
authorities causes many people not to report the crimes they suffer either for fear of reprisals by the authorities themselves or by criminal groups, or simply because of the idea that reporting the crime will not lead to the capture of the perpetrators. When the perpetrators are agents of the State, the hesitation to report is even greater. The population’s trust in the capacity, honesty and actions of the authorities is a *sine qua non* requirement for people to exercise their right to access to justice.

486. In its visit to the country in 2014, the UN Special Rapporteur for extrajudicial, summary or arbitrary executions noted with concern that the distrust and lack of accountability is one of the principal obstacles to protect the right to life in Mexico.\(^708\) According to INEGI’s latest statistics, in Mexico only 1 of every 10 crimes is reported, and 92.8% of crimes remain in “dark figure” (also known as “hidden figure” or “unreported rate”), that is, they are either unreported or, if they are reported, they do not lead to a formal investigation.\(^709\) The number of crimes that eventually lead to a judgment is *de minimis*.

487. In all areas of the country the Commission visited during its *in loco* visit, it received reports about the lack of justice for victims of gross violations of human rights and their families. Victims and their relatives face obstacles at each stage of the process. Despite the numerous complaints received by the CNDH and the various human rights commissions at the state level, and even some recommendations issued regarding such violations, the number of legal cases involving gross violations that have ended in convictions is extremely low. A first step to address this problem ought to be solving crimes and assigning due criminal responsibilities for gross violations committed in the past, in order to break with the historic impunity that has dragged on for decades in Mexico. The fight against impunity at all levels of government, understood as a concrete and resolute State policy, is essential in order to regain citizens’ trust in the institutions of justice.

488. When a victim overcomes the reluctance and decides to report a crime, and the report leads to a formal investigation (*averiguación previa*), the victim faces obstacles at the investigation phase. The lack of autonomy and professionalization of many agencies in charge of investigating and prosecuting crimes in Mexico is one of the structural causes of impunity, as it obstructs an integral, comprehensive and prompt investigation process. The problem permeates agencies and public servants who are initially involved in the investigation of a crime, from those in charge of examining and identifying corpses in homicide cases, the public servants

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\(^{708}\) “Problems in the protection of the right to life in Mexico are due to various factors including deficiencies in the legal system; increased organized crime activity and drug trafficking; unwillingness or lack of capacity of police and prosecutors to investigate; distrust in the judicial system by citizenry; and lack of accountability for violations.” United Nations, *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions*, Christof Heyns, Mission to Mexico, A/HRC/26/36/Add.1, April 28, 2014, Summary.

\(^{709}\) Results of the National Survey on Victimization and Perception of Public Security (ENVIPE) 2015, Primary Results, September 30, 2015. According to the Primary Results, “it is estimated that in 2014 10.7% of crimes were reported, and 67.5% of those lead to the opening of a formal investigation by the Public Prosecutor. Of the total number of crimes, a formal investigation was opened in 7.2% of cases. This leads to 92.8% of crimes resulting in either NO report or NO opening of a formal investigation.” The crime with the highest rate of “figure,” at 99%, is extortion. Available in Spanish at: [http://www.inegi.org.mx/est/contenidos/proyectos/-encuestas/hogares/locales/envipe/envipe2015/doc/envipe2015_presentation_nacional.pdf](http://www.inegi.org.mx/est/contenidos/proyectos/-encuestas/hogares/locales/envipe/envipe2015/doc/envipe2015_presentation_nacional.pdf)
charged with apprehending potential perpetrators, those responsible for the criminal prosecution process, to those involved in the sentencing and confinement phases.710

The causes range from lack of political will, lack of resources, to structural deficiencies and legal lacunae that lead to the absence of a diligent investigation. Sometimes, local authorities cite lack of jurisdiction to investigate crimes that are codified only in special laws and not in the local penal codes.711 The lack of resources or the will to act also causes investigations to drag on for a long time. In Nuevo Leon, to cite an example, clandestine graves discovered in 2011 with human remains were still being investigated in 2015.712 In Guerrero, the public servants themselves have admitted that the infiltration of members of organized crime groups into state agencies, including those in charge of investigations, is such that only a dramatic purge and structural change could begin to professionalize them.713 Federal Mexican authorities have also acknowledged that organized crime groups have surpassed the capacity of many municipalities.714

Particularly, as mentioned earlier in this Report, the fact that forensic agencies depend on the prosecutors' offices represents a structural problem that makes it very difficult to have comprehensive, prompt and impartial investigations. Specialized international organizations have addressed the seriousness of the problem, which affects agencies at the state and federal levels.715 When investigating agencies do not collect the forensic evidence and testimonies about events that might constitute crimes in a way that safeguards their integrity, then their utilization and juridical relevance in the criminal process faces factual and legal hurdles, which can be raised either by the defense or by the judge. These deficiencies in the investigation process eventually cause problems in the judicial process, and often result in the crimes going unpunished.

Additionally, even if the criminal process is carried out with due diligence, the autonomy of the judicial branch may pose another obstacle. A judicial branch that
is autonomous, professional and independent of the political branches is fundamental in order to complete the justice process and combat impunity. The IACHR received information that indicates that many judges and other justice operators in Mexico do not enjoy the necessary independence to carry out their jobs adequately. The IACHR was informed that in the state of Chihuahua, for instance, some first instance judges were allegedly appointed by reason of their familial relationship with political figures of the state, which, if true, would prevent them from being independent of the political branches.\footnote{Meeting with victims and civil society organizations in Saltillo, Coahuila, September 30, 2015.} In addition, in Guerrero, some judges are subject to pressures by the political branches as well as by groups of organized crime, which similarly compromises their work.\footnote{Open Society Justice Initiative, \textit{Broken Justice in Mexico’s Guerrero State}, 2015, p. 33. Available at: https://www.opensocietyfoundations.org/sites/default/files/broken-justice-mexicos-guerrero-state-eng-20-150826.pdf} The information received by the IACHR indicates that these are not isolated situations, that these types of pressures and corruption exist in other regions of the country as well, and that many judges do not have adequate protections mechanisms to face these pressures and corruption.

492. Human rights violations committed by members of the armed forces exemplify the relationship between impunity and denial of justice in Mexico. Two serious problems in Mexico in connection with the process to solve this type of violation are the lack of access to information, and the failure to investigate the chain of command. On the one hand, the Commission received information that requests for public information in the possession of the armed forces are extremely difficult to obtain, despite the recent law on the matter, which stipulates that information related to gross human rights violations and crimes against humanity may not be classified as “reserved.”\footnote{Press article published on AnimalPolítico.com, What does the CNDH understand by “gross violations”? (¿Qué entiende la CNDH por “violaciones graves”?), Mexican Commission for Defense and Promotion of Human Rights, September 7, 2015. Available at: http://www.animalpolitico.com/blogueros-verdad-justicia-reparacion/2015/09/07/que-entiende-la-cndh-por-violaciones-graves/} In these cases, the scant information released by the authorities makes it very difficult to comply with the obligation to investigate the military chain of command and assign criminal responsibilities of the superiors according to international standards.

493. On the other hand, information received by the Commission indicates that in Mexico it is common that the military chain of command is not investigated with a view towards determining any responsibility of the superiors for the crimes committed by their subordinates. On the contrary, instead of carrying out comprehensive investigations of the chain of command to determine the superiors’ responsibility, in Mexico it is common for the high authorities in government to make pronouncements regarding the non-existence of a crime by their subordinates, even when the investigation is still pending.\footnote{For instance, the Minister of Defense declared during a televised interview that in the case known as Tlatlaya—in which there are indicia of extrajudicial executions and which was still under investigation at the time of these declarations, and seven members of the Army have even been processed for homicide in relation with the case—there were no extrajudicial executions, stating that the soldiers “were still and they...}
494. The IACHR recalls that in accordance with international standards and Mexico’s own legal framework, civil authorities are charged with determining potential human rights violations committed by members of the armed forces, and that it is the task of the entire State apparatus to safeguard the procedural integrity of the civil and criminal processes, and especially, abstain from having any inference or exercising any undue pressure on those processes, particularly through pronouncements by the highest authorities that prejudge the result of ongoing investigations. Respect for the autonomy and independence of justice institutions by other state actors is key to recover the population’s trust in those institutions, and to reduce the levels of impunity and denial of justice when members of the armed forces commit human rights violations in Mexico.

495. The Commission has explained previously the link between violence, the occasional inefficacy of Mexico’s judicial systems, the inadequate application of national and international standards, and the lack of access to justice.\(^\text{720}\) This combination of factors impedes that some of the human rights and access to justice reforms adopted by the Mexican State transcend from mere formalities on paper, to a real advancement in the protection of fundamental rights. The lack of due diligence to investigate, process and punish gross violations generates the perception that these violations are tolerated, which does not contribute to prevent their repetition and in fact favors their perpetuation and fosters a climate of impunity.\(^\text{721}\)

496. In order to achieve a true access to justice, it is necessary to go from a formal recognition of the right to access to justice to a real and tangible enjoyment of that right for all persons. As the Inter-American Court and Commission have stated repeatedly, “the States’ duty to provide judicial remedies is not fulfilled merely by making those remedies available to victims on paper; instead, those remedies must be adequate to remedy the human rights violations denounced.”\(^\text{722}\) Particularly, the IACHR recalls that independently of the date on which a crime was committed and the government that was in power at the time it was committed, it is a continuous obligation of the State as such to clarify the truth and achieve justice for the victims.\(^\text{723}\)

acted in self-defense, if they wouldn’t have, they would have been killed. And that is the end, there are no more shots fired. Then the rest of the official personnel entered with a light and they realized that there were a lot of people dead, 22 of them.” The IACHR notes with concern the statements by the highest military officer in Mexico about a case that at that time was still undergoing a criminal process in charge of the civilian authorities, specifically the Office of the Attorney General, PGR.

According to the Global Impunity Index, Mexico ranks 58 of 193 UN Member States in terms of impunity, but it ranks 58 of 59 States that have enough statistical information to perform the Global Impunity Index.\(^{724}\) This Index, an international academic effort by the University of the Americas Puebla, reports that Mexico has two priority areas to address: the functioning of its security system, and the structure of its justice system. On the one hand, the security system in Mexico does not lead to investigations in the majority of cases in which suspects are reportedly identified, detained, or under “arraigo”. On the other, some of the structural deficiencies in the justice system that foster impunity include the low ratio of judges per 100,000 inhabitants, which in Mexico is 4, while the worldwide average is 17 judges per 100,000 inhabitants; and the consequent over-utilization of pretrial detention, since around 42% of detained persons are still awaiting judgment.\(^{725}\) The seriousness of the scarcity of judges per 100,000 inhabitants in Mexico can be understood considering that each judge receives approximately 500 new cases each year.\(^{726}\) The number of police officers per 100,000 inhabitants, in contrast, is much closer to the worldwide average.\(^{727}\)

In addition to these concrete problems, another structural issue that permeates many justice institutions in Mexico is, as already mentioned, corruption and the protection, collusion and infiltration of organized groups into various State agencies. It is urgent for the Mexican State to adopt concrete, prompt and effective measures to fight against corruption at all levels and in all three branches of government.

### C. Access to Information in Cases of Gross Human Rights Violations

The IACHR welcomes the adoption of the General Law of Transparency and Access to Public Information,\(^{728}\) which was the result of a process that included the participation of civil society organizations, which reflects a commitment by the Mexican State with transparency and access to information. Without detracting from the importance and relevance of the adoption of this law, the Commission received information during its visit regarding the obstacles that remain in the efforts to guarantee access to information related to human rights violations.


500. Although the Law contains a prohibition against hiding or denying information related to gross human rights violations, the Commission points out that article 157 of this Law authorized the Office of the Legal Counsel of the Presidency to appeal any decision to declassify information by the National Institute for Access to Information, if doing so poses risks for national security interests.729

501. Even though this provision is applicable to any subject matter, it is expected to have a particularly complex effect with respect to information related to investigations of human rights violations. According to this provision, the appeal must be filed with the Supreme Court, and it presents at least two challenges for the prosecution of justice in terms of human rights: delays in the access to critical information necessary to investigate these gross violations, and establishing clear guidelines or criteria to be applied when making a decision regarding such reservation and appeals.

502. In this sense, the Inter-American Court “has also established that in cases of violations of human rights, the State authorities cannot resort to mechanisms such as official secret or confidentiality of the information, or reasons of public interest or national security, to refuse to supply the information required by the judicial or administrative authorities in charge of the ongoing investigation or pending procedures. Moreover, when it comes to the investigation of punishable facts, the decision to qualify the information as secretive or to refuse to hand it over cannot stem solely from a State organ whose members are charged with committing the wrongful acts. In the same sense, the final decision on the existence of the requested documentation cannot be left to its discretion.”730

503. During the in loco visit, the Commission was made aware of a gradual regression in terms of active transparency policies and public information regarding the deaths of civilians and members of the armed forces in security operations, particularly when there is involvement by the armed forces. In this respect, it was reported that in the last two years the Ministry of Defense agencies have ceased informing periodically regarding the deaths that take place during operations. The media and civil society organizations have had to resort to access to information proceedings in order to access this information, albeit partially, both at the state and national level.

504. During the 156th Period of Sessions in October 2015, civil society organizations pointed out the advancements that the transparency law entails, while at the same time expressed their concerns because it is not compatible with the national security law, given that it is the national security law that defines what constitutes “national security.” Due to this norm and interpretation by relevant authorities, there appears to be difficulty in accessing information regarding disappearances, persons killed in the context of the war on drugs, and access to the military budget.

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For its part, the Federal Law of Archives contemplates a period of over 30 years for the reservation of classified documents. In addition to this concern, there is also the fact that the Ministry of Defense’s policy regarding its archives contemplates that they shall be maintained for three years, and after that they may be destroyed.\textsuperscript{731}

505. Moreover, the State’s defense entities, particularly the Army and the Navy, informed the Commission during meetings in the context of the in loco visit that they no longer inform regarding the number of people who are wounded or killed in military actions against organized crime. They stated that the aforementioned laws protect them and that, since the Supreme Court established that these incidents shall be investigated by the civil courts, it is not the Army’s or the Navy’s responsibility or competence to even document and investigate the results of their actions.

D. Administration of Justice in relation to Human Rights Violations

506. The administration of justice in Mexico has experienced important changes in recent years. The criminal reform of 2008, which paved the way for the unification of penal codes and criteria in the country, contemplates the transformation of the Mexican criminal justice system from an inquisitive and predominantly written system, to one that is adversarial and predominantly oral.\textsuperscript{732} The constitutional reforms of 2011 related to human rights and “amparo” elevated to constitutional level the human rights contained in international treaties of which Mexico is a Party, and made the “amparo” a judicial tool to seek redress for violations of those rights.\textsuperscript{733}

\textsuperscript{731} IACHR, Hearing on Access to Information and national security in America (Acceso a la información y seguridad nacional en América). October 20, 2015.

\textsuperscript{732} In its observations to the draft of this report, the State indicated that through the new Criminal Justice System, less than 10% of cases reach an oral trial, which means that more than 90% are resolved by control judges, through alternative means of dispute resolution—reparation agreements and suspension of processes subject to evidence—(36.4%); summary trials (36.9%); and other types of resolution—non-ratification of detention, non-initiation of the proceeding or forgiveness by the victim (21%). In addition, through the New Criminal Justice System, all criminal cases are resolved in less than 365 days. For summary trials and alternative means of dispute resolution, the time ranges from half to one-third of the time that it would take to resolve through an oral trial. According to the State, in this context, the new system allows the administration of justice to be more expedited. Communication of the Mexican State, Observations of the Mexican State to the Draft Report regarding the Human Rights Situation in Mexico, Note No. OEA-03636, December 15, 2015.

\textsuperscript{733} In its observations to the draft of this report, the State stated that the new Amparo Law expands the application of amparo and allows for it to be filed not only for those who have a legal interest, but also in the exercise of a legitimate individual or collective interest. Indeed, in case of extradition, forced disappearance and forced incorporation to the Army of Navy or Air Force, the amparo can be filed by any person in addition to the individual concerned. The State also indicated that the law provides that that the amparo applies against private party when they are considered responsible authority through acts that are equivalent to those of an authority, which broadens the number of individuals subject to the amparo. For example, there are judgments of the federal Judicial Branch that have allowed amparos against private schools as agents
The 2014 reform of the Military Justice Code established that human rights violations committed by members of the armed forced against civilians shall be judged by civilian courts. With this and other reforms, the Commission considers that the Mexican legal framework is generally evolving in the appropriate direction. The great challenge for the Mexican State is to close the gap between its normative framework and the reality that the Mexican population experiences in its attempt to access justice.

One of the critical aspects in terms of administration of justice is independence and autonomy of judges and other justice operators, who are essential in the fight against impunity in Mexico. On the one hand, it is necessary that judges and justices have institutional independence, that is, that they are not subject to interference by other power structures and institutions of the State. They should be independent firstly in budgetary terms, and also not have other positions of any kind in the executive or legislative branch. Their autonomy should be absolute in order to ensure that the judicial branch does not respond to political interests of any kind. In addition, it is of utmost importance to have mechanisms to protect members of the judicial branch from the risk of being intimidated, corrupted or coopted by criminals, particularly by members of organized crime groups. As long as the political branches and criminal interests are able to infiltrate the judicial branch, as has happened in some parts of Mexico,
it will be impossible for the justice system to function fully to guarantee justice to victims of crimes and their families.  

509. The IACHR has expressed the importance that the process to select and appoint justices of the High Courts takes place in a context of equality of conditions and without discrimination, be based on merit and professional qualifications, and be free from all interference by the political branches. In Mexico, the process to selection and appointment Supreme Court justices takes place with the President sending a group of three candidates to the Senate, which then can ratify one of those candidates. Recent appointments have been tarnished by accusations of political interference, and sectors of civil society criticized the appointment of a Supreme Court justice who did not have previous judicial experience. The IACHR urges the Mexican State to ensure that future shortlists of candidates include female and male candidates who are properly qualified for a position as important as that of Justice of the Supreme Court of Mexico, and that their selection does not take into account political considerations.

510. Another issue that stands out in relation to the administration of justice in Mexico is the definition of jurisdiction between the federal courts and the state courts in criminal matters. The determination of whether the federal or state authorities shall be competent to investigate and hear a crime carries extremely important implications for the protection of human rights of victims as well as defendants, and to ensure respect for due process. When there is discretion without clear and concrete criteria regarding jurisdiction between federal and state authorities in the so-called "concurrent laws", it becomes prone to abuse, since the federation may decide whether or not to absorb investigation regarding a specific crime based on considerations that are not exclusively technical.

511. Some federal laws contemplate that investigation of crimes that are within the jurisdiction of the state’s authorities (known as the "common" jurisdiction) may be absorbed by the Federal Public Prosecutor if it simply requests that the investigation of the specific crime be remitted to the Federal Public Prosecutor.

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743 General Law on Health, latest reforms published on the Official Gazette of the Federation on June 4, 2015, article 474, which provides that “Federal authorities shall have competence over crimes in any of the following cases: I. Cases of organized crime. II. The amount of the controlled substance is no greater than that mentioned in the first paragraph of this article. III. The controlled substance is not contemplated in the
Other “concurring laws”—that is, those under which both federal and state authorities have jurisdiction to investigate or prosecute a crime—do not contain provisions regarding how jurisdiction is to be shared among the federal and the federal states. This jurisdictional ambiguity creates legal uncertainty and, therefore, reduces compliance with the State’s obligation to respect due process, judicial protection, among other rights. Without prejudice to the State’s sovereignty to organize its internal justice system, with respect to gross human rights violations, it is fundamental that there be a clear and direct assignment of jurisdiction among the various components of a federal system.

512. Furthermore, the lack of uniformity of judicial criteria creates disparities in the administration of justice in Mexico. The areas that lag behind economically, which tend to be rural and predominantly indigenous areas, have judges and other justice operators with less training and less human and material resources, which generates arbitrariness when it comes to interpreting and applying laws, and even more so when it comes to undertaking the control of conventionality analysis and applying international standards (see discussion above, at Chapter III).744 Similarly, the administration of justice is affected by the codification of crimes in different ways in different states, and even by the lack of codification of some crimes. This problem, as explained earlier in this Report, is particularly concerning with respect to gross human rights violations.

513. The Inter-American Court and Commission have highlighted the importance of courts and other State entities related to the administration of justice apply criteria that are consistent among one another and in accordance with international human rights standards.745 The Commission expects that with the adoption of laws with national reach regarding forced disappearance and torture, and with the homologation of the penal codes of the various states that already contain these crimes, some of these problems will be addressed.

514. In addition to clear and uniform juridical criteria, an integral and professional investigation is critical to ensure a true access to justice. The IACHR has seen how investigative police and other public servants in charge of investigations and prosecution of crime in Mexico, especially at the local level, lack the most basic capacity to investigate ordinary crimes, and much more so to investigate complex crimes and gross human rights violations.746 These problems exist in connection with investigation under both federal and state jurisdiction, and the lack of

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744 Open Society Justice Initiative, Broken Justice in Mexico’s Guerrero State, 2015, p. 49. Available at: https://www.opensocietyfoundations.org/reports/broken-justice-mexico-s-guerrero-state


746 Open Society Justice Initiative, Broken Justice in Mexico’s Guerrero State, 2015, p. 42. Available at: https://www.opensocietyfoundations.org/reports/broken-justice-mexico-s-guerrero-state
professionalization of some authorities in charge of conducting initial investigations after a crime is committed is concerning to the Commission.  

1. Criminal Justice System

515. As mentioned above, the new criminal justice system is designed to function in the entire country by June 18, 2016, at the latest. This reform entails one of the most robust transformations in the history of criminal justice in Mexico. The IACHR acknowledges the institutional and budgetary effort undertaken by the Mexican State in this regard. SETEC, the technical secretariat in charge of coordinating implementation of the new criminal justice system, informed the Commission about the potential of the new system to improve access to justice in Mexico, since it is designed to resolve criminal matters in less time, reduce costs, and create incentives to apply precautionary measures other than pretrial detention. It also reported that the new system represents an advance in terms of respect for human rights, in three primary aspects: (i) it makes the administration of justice more transparent, as it allows greater access for victims and for defendants; (ii) it creates effective instruments to fight organized crime without overlooking due process; and (iii) it takes as its starting point an inter-institutional coordination among all three levels of government (municipal, state and federal). The Commission hopes that the aspirations of the new criminal justice system will be reflected in practice.

516. The State has reported important advances in the implementation of the new criminal justice system, and roughly nine months before the constitutional deadline, it reported that it expects to comply with the stated expectations. At the same time that it expressed this commitment, the State recognized that there is:

- a delay in the implementation of the New Criminal Justice System due to the fact that, at the time, the assignment of public resources was subordinated to other goals. In addition to that, the insufficient legislative harmonization, the lack of training among operators and the functioning of the institutions

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750 As of September 25, 2015, the State reported that it still did not have a timeline for the entry into force of the new criminal justice system in the state of Sonora.
One of the challenges in the implementation of the new justice system is that it be uniform throughout the country. While Sonora will be the last state where the new criminal justice system will be implemented and the National Code of Criminal Procedure will enter into force at the local level, the Commission notes with concern that at the federal level, the gradual progress agreed and approved by Congress shows delays in some of the states with the highest crime rates, such as Tamaulipas, Michoacán, Guerrero and Veracruz.

As the State itself has indicated, another important challenge is the inertia derived from the professional training of justice operators in the old, inquisitive criminal justice system. This institutional and individual inertia requires the State to double its efforts in terms of training of all justice operators. One of the fundamental challenges of the new criminal justice system will be to ensure that investigations are carried out in a technical, independent and professional manner, as well as ensuring that there is due coordination among the state prosecutors’ offices and the federal prosecutor’s office, as appropriate. A system of independent public defenders with sufficient resources will also be fundamental to ensure that the new justice system functions according to its objectives.

In addition, the IACHR has received information indicating that the National Code of Criminal Procedure (NCCP)—the pillar of the new criminal justice system—contains some concerning deficiencies. Notable among them are the permissibility of detention without a court order, through *arraigo* and also through the search of persons and vehicles without an order issued by a competent judicial authority. It also allows the detention of person in cases of crimes that require a complaint by the injured party up to a maximum of 24 hours. The NCCP also establishes a precautionary measure similar to *arraigo* that contemplates confinement in the person’s own residence with the conditions imposed by a judge, applicable in all types of crimes, and which establishes the seizure of assets in the investigation.

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754 National Code of Criminal Procedure, articles 132, 147, 251, 266 and 268. Observations regarding the National Code of Criminal Procedure to be considered by the Inter-American Commission on Human Rights, Documenta, October 1, 2015 (IACHR Archives).

755 National Code of Criminal Procedure, articles 132, 147, 251, 266 and 268. Observations regarding the National Code of Criminal Procedure to be considered by the Inter-American Commission on Human Rights, Documenta, October 1, 2015 (IACHR Archives).

756 National Code of Criminal Procedure, article 155, subsection XIII. Observations regarding the National Code of Criminal Procedure to be considered by the Inter-American Commission on Human Rights, Documenta, October 1, 2015 (IACHR Archives).
of a crime without a court order. 757 It will be essential that the Mexican State undertake all necessary modifications to the NCCP to ensure it complies with international standards regarding criminal due process.

520. In addition, the new Investigative Police, which will operate starting with the new criminal justice system and will be in charge of coordinating the investigation in cases of potentially criminal acts, supervise and direct the processing of the crime scene, and coordinate the experts that intervene in the crime scene, among others, will need to overcome the institutional structures of the police bodies that operate and operated under the inquisitive criminal justice system. 758 It will be fundamental for this Investigative Police to have real autonomy and resources to act professionally during the investigation, and that it not conduct itself in response to its hierarchical superiors or political actors.

521. The paradigm shift that the New Criminal Justice System supposes has no precedent in Mexico, and the transition period will have additional challenges. The persons who will implement it day to day have been formed for years primarily in the old system; the judges will be more or less the same that operated under the old system; attorneys were also formed under the old system. The IACHR is aware that it will not be an easy task to quickly eliminate all the ways of the old system, and it is precisely there that lies the challenge for the Mexican State, in ensuring that the change is not only on paper, but that it actually reaches the individuals who make and will make the new criminal justice system possible in practice.

522. The Commission received information indicating that the case of seven persons disappeared and subsequently murdered allegedly by members of the Mexican Army in the municipality of Calera, Zacatecas, will be processed under the new criminal justice system. 759 The IACHR will follow this process closely, as an example, to verify the functioning of the new criminal process in connection with gross human rights violations.

523. The IACHR is aware of the challenge presented by the implementation of the new criminal justice system of Mexico’s justice institutions. As pending cases under the old inquisitive system are processed until their conclusion, the two justice systems will coexist in parallel and will be administered by the same institutions and in some cases by the same individuals. 760 This overlap will represent an even greater challenge in order for the justice system in Mexico to comply fully with its objectives, which the IACHR will follow closely.

757 National Code of Criminal Procedure, articles 242 and 249. Observations regarding the National Code of Criminal Procedure to be considered by the Inter-American Commission on Human Rights, Documenta, October 1, 2015 (IACHR Archives).
759 Information presented during the hearing on “Reports of extrajudicial executions in Mexico,” 154th Period of Sessions, March 20, 2015.
760 Mexican Institute for Human Rights and Democracy, “Prosecution: status of the implementation of the adversarial criminal justice system and its challenges,” (Procuración de justicia: estatus de implementación del sistema penal acusatorio y sus retos), September 15, 2015 (IACHR archives).
2. Law of Attention to Victims

524. The General Law of Attention to Victims (GLV), adopted in 2013, is the main juridical framework for attention to victims of human rights violations and their families. Among other things, the GLV establishes as the main entity of the Mexican State in this regard, the National System for Attention to Victims. In addition, it provides the mechanism for the functioning of the Executive Commission of Attention to Victims (CEAV), the National Registry of Victims, the Federal Legal Advisor’s Office, and the Fund for Help, Assistance, and Integral Reparation. The Commission welcomes these important normative advances to offer support to victims and their families.

525. Without prejudice to the foregoing, the Commission has received information regarding certain deficiencies in the functioning of the CEAV in practice. On the one hand, the information received indicated lack of coordination among the institutions that make up with National System for Attention to Victims (SNAV), as well as among the federal and state agencies for attention to victims.

526. The duplicity of functions between federal and state agencies creates confusions for many people who approach them in search of assistance. Additionally, the attorneys general’s offices, prosecutors’ offices, and human rights commissions at times differ in their criteria for assisting victims, which causes some victims to consider that the search for legal, medical or psychological assistance is a “labyrinth.” In addition to the need for more human resources so that their operational capacity can match the demand that the CEAV faces, it is also notable that in practice many victims cannot access to the services offered when it relates to crimes not contained in any federal law, in which case they are sent to their respective state governments. However, not all state governments have laws regarding attention to victims for cases not covered by CEAV, and out of those that do, not all have a state commission for attention to victims, so that in practice there are no mechanisms to ensure that all victims can access the services that the General Law of Attention to Victims establishes as their right. It is therefore imperative that all state laws are homogenized with the General Law of Attention to Victims, and the political will of all relevant states is necessary to achieve it.

761 “Visit of the Inter-American Commission on Human Rights: Information of the Mexican State,” Mexico City, September 25, 2015, Section 2.5, p. 34.
762 Information from the Executive Commission of Attention to Victims, in loco Visit by the IACHR, Report for January-August 2015, p. 2 (IACHR Archives).
763 Visit of the Inter-American Commission on Human Rights: Information of the Mexican State,” Mexico City, September 25, 2015, Section 2.5, p. 35.
764 Information provided by the Executive Commission of Attention to Victims, “Project for a Program of Integral Attention to Victims, 2014-2018”, April 2015, pp. 17-18 (IACHR Archives).
765 Information provided by the Executive Commission of Attention to Victims, “Project for a Program of Integral Attention to Victims, 2014-2018”, April 2015, p. 18 (IACHR Archives).
766 Information provided by the Executive Commission of Attention to Victims, “Project for a Program of Integral Attention to Victims, 2014-2018”, April 2015, p. 20 (IACHR Archives).
527. Some instances of investigation and administration of justice destined to attention to victims at times are not apt to protect the privacy of sensible information, guarantee its security, and generate an environment of trust for the victims.\(^{767}\) The Commission has also received information that many times it is difficult for relatives of victims to be recognized as indirect victims and assist in the process, as contemplated by the GLV, particularly in the context of disappeared migrants in Mexico.\(^{768}\)

528. Moreover, indigenous persons whose relatives have disappeared also frequently face the problem of lack of interpreters.\(^{769}\) All this contributes further to the distrust in these institutions. Things are even more complicated when the public servants who do try to provide assistance to victims are harassed, threatened or intimidated by their superiors, which is a situation about which there is limited information since it is rarely reported.\(^{770}\) The IACHR also received information indicating that attention to victims frequently lacks differentiated perspectives to assist victims with a gender perspective, a particular perspective to address the needs of children and adolescents, indigenous persons (including the absence of a national center of interpreters and translators of indigenous languages in the context of attention to victims), migrants, among others.\(^{771}\) The IACHR calls on the Executive Branch of Mexico to strengthen the mechanism and address these deficiencies of the National System for Attention to Victims, as well as others identified in the CEAV’s own report.\(^{772}\)

529. Since October 2012 the Ministry of the Interior established the Trust for Compliance with Human Rights Obligations, designed to comply with recommendations regarding monetary reparations issued by the Inter-American Court, the IACHR, the CNDH, as well as to provide victims of human rights violations with scholarships, medical and psychological attention, and any other measure that entails the expenditure of public resources.\(^{773}\) The regulations for the functioning of the Trust were published in the Official Gazette of the Federation on

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\(^{767}\) Information provided by the Executive Commission of Attention to Victims, “Project for a Program of Integral Attention to Victims, 2014-2018”, April 2015, p. 19 (IACHR Archive).

\(^{768}\) Report addressed to the Inter-American Commission on Human Rights after its in loco visit to Mexico from September 28 to October 2, 2015, Expansion of Information, October 16, 2015, p. 9 (IACHR Archives).

\(^{769}\) Report addressed to the Inter-American Commission on Human Rights after its in loco visit to Mexico from September 28 to October 2, 2015, Expansion of Information, October 16, 2015, p. 10 (IACHR Archives).

\(^{770}\) Information provided by the Executive Commission of Attention to Victims, “Project for a Program of Integral Attention to Victims, 2014-2018”, April 2015, p. 22 (IACHR Archives).

\(^{771}\) Information provided by the Executive Commission of Attention to Victims, “Project for a Program of Integral Attention to Victims, 2014-2018”, April 2015, pp. 23-25 (IACHR Archives).

\(^{772}\) Information provided by the Executive Commission of Attention to Victims, “Project for a Program of Integral Attention to Victims, 2014-2018”, April 2015 (IACHR Archives).

May 29, 2014. The IACHR reiterates its satisfaction with these formal advances, and repeats the importance of making sure that they are translated into real changes for victims of human rights violations in Mexico.

E. National Human Rights Commission

530. The protection and defense of human rights in Mexico was elevated to constitutional level on January 28, 1992, with the reform of article 102 of the Mexican Constitution. This reforms states that the National Human Rights Commission (CNDH) is an entity with operational and budgetary autonomy, as well as legal personality and its own assets. The fundamental objective of this entity is the protection, observance, promotion, study and dissemination of the human rights established in the Mexican legal framework. In addition, the Constitution stated that the various federal states would establish human rights commissions in their respective jurisdictions.

531. In terms of gross human rights violations addressed in this Report, the CNDH reported having registered, between 2006 and 2015, 10,249 complaints for arbitrary detention; 9,331 for torture and other cruel, inhuman or degrading treatments; 313 for forced disappearance; and 11 for extrajudicial execution. It is worth mentioning that each complaint can be related to more than one victim (for instance, the CNDH counts the case of the 43 students from Ayotzinapa who were disappeared as a single complaint of forced disappearance). As a result of its investigation and analysis of these complaints, the CNDH reported having issued, between 2006 and 2015, 13 recommendations for forced disappearance, 82 for torture, and 2 for extrajudicial execution. In addition, during that same period, the CNDH issued 160 recommendations for other cruel, inhuman or degrading treatments, and 127 for arbitrary detention. The acts for which the CNDH issued the highest number of recommendations to the State’s security forces were deprivation of life, torture, and forced or involuntary disappearance.

532. In 2014, the Mexican Senate approved a constitutional reform to authorize the CNDH to file unconstitutionality actions to defend human rights. The CNDH

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779 Senate of the Republic, Communication No. -880, CNDH will be able to file action of unconstitutionality to defend human rights, approved by the Senate (CNDH podrá interponer acción de inconstitucionalidad en defensa de los derechos humanos, avala Senado), December 15, 2014. Available at: http://comuni–
reported having filed six unconstitutionality actions since the reform: five relating to states’ laws, and one relating to the National Code of Criminal Procedure. 780 These legal actions represent an essential attribute of the CNDH to perfect the Mexican legal framework.

533. Even though the Mexican Constitution authorizes the CNDH to investigate facts that constitute gross human rights violations, when it determines it appropriate to do so, 781 information received by the Commission indicates that this authority is not utilized broadly or systematically.

534. In addition, the CNDH must act in a uniform manner and following clear criteria regarding what constitutes a gross human violation. 782 For instance, the information received indicates that the CNDH has classified acts of torture as cruel, inhuman or degrading treatments, or as abuse of authority. Additionally, it is necessary to strengthen the human rights commissions of the various states, which have been strongly criticized by civil society organizations for their minimal action in the face of human rights violations. In particular, the information received indicates that they do not open up investigations for gross violations under the pretext that “the case does not proceed or they do not appear to document the facts after having received a complaint.”

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782 The IACHR has been informed that at times, the CNDH has not characterized as “gross” events that implicate members of the armed forces in alleged criminal acts that range from deprivation of liberty and torture to even deprivation of life, which the CNDH nonetheless did not classify as “gross violations” of human rights.
CHAPTER 7

CONCLUSIONS AND RECOMMENDATIONS
CONCLUSIONS AND RECOMMENDATIONS

535. The situation of violence and insecurity in Mexico reviewed in this Report, which is generated by the acts of organized crime groups along with a militarized response, and the capture of members of the State by organized crime groups, has had as its consequence an increase in gross human rights violations. Despite the significant advances in constitutional and legislative terms in recent years, as well as the adoption of important public policies in Mexico, which were designed in accordance with international human rights law, the information received by the Commission indicates that the insecurity and violence continue without the required State's response. They are fueled by the fear generated by organized crime groups that act on their own and at times in collusion with authorities throughout the Mexican territory, as well as by the subsequent impunity that surrounds these acts.

536. In this context, the reports of disappearances, extrajudicial executions and torture continue to be of concern, as well as the situation of insecurity of persons or groups that are more exposed because of historical discrimination or because of their activities like women, children, migrants, indigenous peoples, human rights defenders and journalists, who are victims of murders, disappearances, kidnapping, torture, threats and harassment.

537. For the Commission, the current crisis of gross human rights violations that Mexico is undergoing is in part a consequence of the impunity that persists since the so-called “Dirty War” and that has fostered its repetition up to today. Currently, the task for the Mexican State is to close the existing gap between its normative framework and its unrestricted support for human rights, and the reality facing a large number of inhabitants who seek access to a prompt and effective justice.

538. Therefore, the great challenge for the Mexican State lies in breaking the cycle of reigning impunity with the mechanisms it has created in recent years, in order to achieve an effective prevention, investigation, processing and punishment of those responsible for human rights violations, and to ensure that the normative advances generate real improvements in the lives of all persons in Mexico.
539. In this context, the IACHR makes the following recommendations to the Mexican State, some of which, according to the information provided in the observations to the draft of this report, are reportedly being carried out by the State:

A. **Citizen Security**

1. Develop a concrete plan for the gradual withdrawal of the Armed Forces from public security tasks and for the recovery of such tasks by the civilian police forces.

2. Strengthen the capacity of police forces to carry out public security tasks according to international human rights standards.

3. Adopt a General Law regarding the use of force according to international human rights standards.

4. Implement measures so that federal and state public servants abstain from issuing public statements regarding the legality of the acts of security forces in cases that may constitute an undue use of force before the results of an investigation are available.

5. Adopt and implement accountability measures by an agency that is independent of all security forces, in relation to their operations and public security tasks whenever there is use of lethal force.

6. Ensure that in cases of forced disappearances, extrajudicial executions and torture, investigation lines relate not only to the material perpetrators, but also include the responsibility of those in the chain of command.

7. Create systems for the information, compilation and analysis of data regarding the violence that affects the different groups addressed in this Report, such as women, children and adolescents, migrants, human rights defenders, justice operators, LGBT persons, indigenous peoples, and persons deprived of liberty.

8. Re-direct the approach to the issue of drugs in Mexico, away from a focus on militarization and “frontal attack” using public force, to one with an integral approach of human rights and public health regarding addictions and consumption without intent to distribute.

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B. Disappearances and Forced Disappearances

9. Adopt a General Law regarding Disappearances and Forced Disappearances, and adopt all necessary measures to ensure that both at the federal and state level, the laws and practices comply with international standards on the subject.

10. Establish mechanisms of immediate search for disappeared persons in the entire national territory.

11. Improve the National Registry of Disappeared Persons to become a sole registry of disappearance so that it can also register a person as a victim of forced disappearance. A database should contain personal information of the disappeared persons, all necessary information, primarily genetic information and cellular samples, of relatives of disappeared persons with their consent, and genetic information and cellular samples from any unidentified person who is deprived of life. Such personal information shall be protected on the Registry’s platform in accordance to international standards regarding access to information.

12. Strengthen existing mechanisms in terms of early alerts and urgent search in cases of disappearances of women and children, to ensure their effective application at the federal, state, and municipal levels. In addition, strengthen the National Registry of Data of Missing or Disappeared Persons, so that it may provide precise and reliable information about women and children who are disappeared and forcibly disappeared.

13. Follow the recommendations of the Interdisciplinary Group of Independent Experts (GIEI) in accordance with the attributes established by its mandate, specifically the reiterated request to interview the members of the Army and visit Batallion No. 27, and continue the investigation of the Ayotzinapa case. Consider utilizing similar mechanisms for other cases of gross human rights violations.

C. Torture

14. Adopt a General Law against Torture and other cruel, inhuman or degrading treatment or punishment, and adopt all necessary measures to ensure that both at the federal and state level the laws and practices comply with international standards on the subject, particularly the Inter-American Convention to Prevent and Punish Torture and the Optional Protocol to the UN Convention Against Torture.

15. In particular, ensure that the General Law against Torture excludes “evidence” or “confessions” obtained through the use of torture from the criminal process of the tortured person and of other persons implicated in such confessions. Establish clearly in the law that the prosecution has the burden of proof to prove the lawfulness of any questioned evidence or confession.
16. Create a Single National Registry of detained persons and ensure that such persons are taken immediately before a judge under risk of sanctions for failure to do so.

17. Investigate cases in which judges have not ordered an investigation where there are reports of indications that torture or mistreatment took place. Ensure that the Istanbul Protocol is applied at the national level by competent and independent authorities in an expedited manner and under risk of sanctions for failure to do so.

18. Establish the mandatory use of cameras and other security protocols during investigations and inside police vehicles, as a measure to prevent torture and other cruel, inhuman and degrading treatments.

19. Establish federal and state-level guidelines regarding the collection of uniform statistics regarding gross human rights violations. In particular, the State should improve its system to compile information that is disaggregated, transparent and that follows a consistent methodology.

20. Eliminate “arraigo” and quasi flagrante delicto (flagrancia equiparada) from the Mexican legal framework.

D. **Extrajudicial Executions**

21. In any act in which there is lethal use of force or loss of life at the hands of members of the security forces, undertake a comprehensive formal investigation in accordance with international standards, que las investigaciones desde la escena del crimen sean procedidas por peritos no integrantes de organismos policiales o militares.

22. Ensure that the Armed Forces register statistics regarding persons who are killed or wounded in their operations, and that the relevant investigations are initiated as appropriate.

23. Establish a national registry regarding the unidentified remains unearthed in cemeteries throughout the country, which are the result of violent deaths. In addition, search for clandestine graves in states with the highest levels of violence.

24. Create a national, autonomous institution of forensic services with adequate infrastructure, sufficient financial and human resources, and standardized protocols applicable at the national level.

25. Undertake all processes of unearthing and identifying remains strictly abiding by a dignified treatment of the victims’ families by all authorities of all levels of government involved in the process.

26. Continue and expand the work of the Forensic Commission for the Identification of Remains in cases found along the routes followed by migrants. Adopt all necessary measures to create a Transnational Mechanism of Access to Justice for Migrants.
and their Families, as well as the creation at the federal level of a Special Prosecutor's Office for Violent Crimes against Migrants.

27. Implement a national mechanism to facilitate the exchange of forensic information on the unidentified remains of Mexicans and Central Americans disappeared in Mexico with the forensic databases of disappeared migrants that have been developed throughout the region.

E. Access to justice

28. Strengthen the prosecutors' offices throughout the country in terms of technical and independent training, with the objective of guaranteeing investigations with due diligence.

29. Establish a coherent plan regarding cooperation between prosecution authorities at the federal and state levels in the investigation of gross human rights violations, with an integral vision, specific protocols, and the adoption of technical and professional—but not political—criteria for the decision to transfer specific investigations to the federal level.

30. Adopt specific protection measures for victims, their families, their representatives, witnesses, experts and defenders who participate in the investigation or search for justice, when they are at risk. Guarantee access to files to families and their legal representatives. Impose appropriate sanctions in cases of reprisals against any of these persons.

31. Adopt specific protection measures for justice operators according to their particular needs and in consultation with them.

32. Ensure the implementation of the General Law of Victims and the functioning of the Executive Commission of Attention to Victims at the federal and state level. In consultation with civil society organizations and with victims, analyze and address concretely the barriers that impede its effective implementation, and eliminate them.

33. Assume the historic responsibility of accountability for gross human rights violations. Investigate, clarify and punish the acts committed during the time period known as the Dirty War.

34. Strengthen the Mechanism of protection for human rights defenders and journalists, guaranteeing its financial sustainability in the long-term and vesting it with greater administrative autonomy, and urging the states to collaborate with it. In turn, the recommendations for the Mechanism are to evaluate and adopt differentiated protection measures taking into account gender, indigenous leaders, environmental defenders; measure the effectiveness of implemented measures; foster the institutional articulation and cooperation with the PGR; and increase the transparency of all actions to increase the trust of the beneficiaries in the
mechanism. The foregoing shall be accompanied by a policy of prevention and participation by the population object of the Mechanism.

35. Reform the Code of Military Justice to provide that whenever a member of the armed forces commits acts that may constitute a human rights violation, such acts shall be judged by civil tribunals, independently of whether the victim is a civilian or a member of the armed forces.

36. Monitor the entry into force of the new criminal justice system as well as the effectiveness of the trainings regarding it. Include public defenders in the trainings.

37. Evaluate the effective implementation of the new criminal justice system, as well as the areas that will require more specific monitoring, with adequate training and all necessary resources. Include permanent training for justice operators and public defenders regarding the conventionality control.

F. **Persons in particularly vulnerable situations**

Regarding LGBT persons, the IACHR urges the Mexican State to:

38. Adopt necessary measures to investigate, punish and repair acts of violence against LGBT persons, according to international standards regarding due diligence. Investigations of cases of violence against LGBT persons must be free of stereotypical notions of LGBT persons and should include a determination of whether the acts were committed because of the sexual orientation or gender identity of the victims.

39. Adopt necessary measures in terms of prevention of violence, including legislative measures and public policies aimed at eradicating social discrimination towards LGBT persons, which causes and reinforces the violence based on prejudice.

Regarding the rights of women, the IACHR recommends the Mexican State to:

40. Implement and strengthen measures that incorporate a gender perspective to comply with the duty to act with due diligence to prevent, punish and eradicate violence and discrimination against women, including specific efforts to comply with the obligation to prevent, investigate, punish and repair human rights violations against women; this includes training and monitoring of the authorities in charge of stages beginning with the investigation, including health services in the context of justice.

41. Adopt necessary measures to prevent, punish and eradicate acts of sexual violence and other forms of violence, torture and cruel, inhuman or degrading treatment by security forces against women, especially those who are deprived of life.

42. Implement uniform protocols by the prosecutorial authorities for crimes related to violence against women, as well as a proper supervision of their implementation.
43. Adopt public policies aimed at restructuring stereotypes regarding the role of women in society and promote the eradication of socio-cultural patterns of discrimination that impede their access to justice, including training programs and integral policies for the prevention of violence against women.

44. Design and implement culturally adequate policies, with the participation of indigenous women, and apply a comprehensive and holistic focus that has as its objective prevention, investigation, punishment and reparation of acts of violence and discrimination committed against them.

Regarding children and adolescents, the IACHR urges the Mexican State to:

45. Develop operational protocols for the police regarding interventions involving children and adolescents, aimed at ensuring the protection of their rights.

46. Implement and strengthen measures to fulfill the duty to act with due diligence to prevent, punish and eradicate violence against children and adolescents, including concrete efforts to fulfill the obligations to prevent, investigate, punish and repair human rights violations and consider the corresponding aggravating factors related to the age of the victim.

Regarding indigenous peoples and gross human rights violations:

47. Adopt measures to ensure that a culturally adequate perspective, which takes into account the collective nature of indigenous peoples and communities, is considered when they or their members are victims of human rights violations.

48. Guarantee the availability of translators throughout the country and at all levels of government so that indigenous peoples and their members may have access to justice when they so require it.

49. Adopt necessary measures to carry out free, prior and informed consultations on projects that affect their lands.

Regarding persons deprived of liberty:

50. Correct the excessive use of pretrial detention, and apply it exceptionally, using other precautionary measures that do not deprive of liberty. In this context, guarantee that detained persons are immediately presented before a judge, so that detention without judicial order may be restricted in cases of alleged flagrante delicto and quasi flagrante delicto.

51. Adopt all necessary measures to guarantee a strategy of reincorporation into society. In this sense, guarantee that financial resources are directed at humanizing and implementing measures that allow persons deprived of liberty to be reincorporated into society. In particular, regarding persons with disabilities, identify a strategy for social reincorporation through programs that include community service.
52. Make publicly available the information regarding the standards of the American Correctional Association ("ACA") to certify prisons and penitentiaries.

53. Implement normative and other measures to guarantee detention conditions that are adequate for the particular needs of groups in particularly vulnerable situations. In relation to women deprived of liberty, the State should guarantee that the adoption of corresponding measures takes into account a gender focus. Regarding persons with disability who are deprived of liberty, the Mexican State should guarantee the elimination of barriers in the surroundings that complicate the exercise of their rights, through reasonable accommodations.

54. Adopt measures to address pretrial detention and the high levels of overcrowding. The measures may include, among others, an increase in the number of criminal judges, and the establishment of periodic review of case files to be able to identify cases with excessive duration of pretrial detention.

55. Ensure that the National Criminal Sentencing Law includes international standards that guarantee the rights of persons deprived of liberty, both those who are being processed and those who have been sentenced, with an emphasis on criminal due process and reincorporation into society.

Regarding migrants:

56. Comply with the series of recommendations formulated in the Report Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico.

57. Create a national survey to “characterize” internal forced displacement in Mexico and, consequently, adopt a national policy and measures to provide a response to this problem in accordance with international standards on the subject, particularly the UN Guiding Principles on Internal Displacement.

58. Adopt specific legislation at the federal and state level to address internal displacement, in accordance with the UN Guiding Principles on Internal Displacement.

59. Ensure, at the federal level, that there is an institution in charge of the protection of persons who are victims of forced displacement.

Regarding human rights defenders:

60. Strengthen the instances in charge of protection of human rights defenders and journalists, so that their life and integrity can properly be guaranteed. At the same time, incorporate gender and multicultural perspectives in the design and adoption of protection measures for defenders and journalists.
Regarding freedom of expression, the Commission makes the following recommendations to the Mexican State:

61. Recognize, at the highest levels of the State, the legitimacy and the value of the journalistic work, and condemn attacks as reprisals for the exercise of the freedom of expression.

62. Define a single methodology to generate and publish detailed and disaggregated statistics regarding violence against journalists and investigations of attacks, as well as the protection measures adopted. Define a State authority in charge of capturing information and publishing statistics, and inform the various actors regarding the challenges that arise in the application of said methodology.

63. Remove all obstacles so that, in practice, the Specialized Prosecutor’s Office for Attention to Crimes against Freedom of Expression (FEADLE) may absorb investigation of crimes against journalists and against freedom of expression. This way, make more effective the exercise of federal jurisdiction over crimes within its competence and guarantee that the most serious violations of freedom of expression are always investigated by that Office.

64. Maintain the FEADLE’s character as a specialized prosecutor’s office and vest it with sufficient financial and human resources so that it may achieve its objectives.

65. Adopt special protocols for the investigation of murders pursuant to which the hypothesis of a relation to the journalistic profession is exhausted completely.

66. Improve the existing relation between the federal and state jurisdictions with the objective of avoiding competence conflicts that impede or delay investigations.

67. Allow victims, their families and, when applicable, assisting third parties to participate in the criminal processes with full guarantees, both for the search of the truth and for clarifying the facts, as well as at the time of demanding reparations.

Access to Information

68. Regarding the legal attributions that the Law of Access to Information assigns to the Presidency’s Legal Advisor’s Office, such attribution should be regulated according to international principles regarding access to public information and national security.

69. Strengthen laws, policies and practices to ensure that judicial authorities have complete access to relevant information when they investigate and process cases on human rights violations attributed to the security forces.

70. Adopt pertinent measures so that security agencies compile, systematize and publish periodically information regarding injuries to life and personal integrity as a consequence of the fight against organized crime. The information regarding such injuries should describe the place where they occurred, the date, information regarding the unit of the security force that was present when they occurred,
information regarding its mandate and control. In addition, it should describe what were the causes of the injury and the inability to prevent them.

Regarding the Mechanism to Protect Human Rights Defenders and Journalists, the Commission makes the following recommendations to the Mexican State:

71. Require competent authorities to take into account international parameters regarding protection, especially the considerations outlined in the “Second Report on the Situation of Human Rights Defenders in the Americas” and the “Report on Violence against Journalists and Media Workers of the IACHR’s Special Rapporteurship for Freedom of Expression.”

72. Provide all political support necessary for the adequate operation of the protection mechanism, which should include all the necessary financial resources so that it may develop its competencies efficiently in relation to protection, and so that it may be sustainable over time.

73. Adopt all necessary measures to assign and train all necessary personnel for its adequate operation.

74. Guarantee that risk assessments and the implementation of prevention and protection measures are done adequately and addressing the urgency of the situation. Therefore, assign protection and review schemes regarding the adequacy of the risk evaluation processes, guarantee an adequate participation, communication and consensus-building with the persons protected by the mechanism, as well as the beneficiaries of precautionary measures requested by the IACHR.

75. Undertake an evaluation and adoption of differentiated protection measures for women, indigenous leaders, and environmental defenders.

76. Implement strategies so that the various institutions at the state and federal level work in a coordinated fashion to provide an integral response to all matters related to the protection of human rights defenders and journalists.

77. The protection mechanism should implement a communication strategy regarding its competencies, the requirements to enter the program, among other necessary information, with the objective of making human rights defenders and journalists aware about the protection that the mechanism can offer. Similarly and in accordance with international standards, provide access to necessary information regarding the protection mechanism so that it may provide greater transparency regarding the work it is doing.

78. Encourage the mechanism to adopt a process that allows it to issue protection measures directly and of its own initiative (sua sponte) in those cases which, because of their gravity and urgency, require them immediately.
79. Double efforts to investigate acts that cause the entry and permanence of protected persons into the protection mechanism, with a view towards conducting thorough investigations as prevention policy of the State.

80. Encourage the mechanism to adopt tools that allow it to evaluate the effectiveness of the implemented protection measures, as well as increase transparency of all its action to increase the trust of beneficiaries. The foregoing shall be accompanied by a policy of prevention and participation by the population object of the mechanism.
Tab. 11.
FREEDOM IN THE WORLD 2020

Mexico

PARTLY FREE

<table>
<thead>
<tr>
<th>Category</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Political Rights</td>
<td>27/40</td>
</tr>
<tr>
<td>Civil Liberties</td>
<td>35/60</td>
</tr>
</tbody>
</table>

LAST YEAR’S SCORE & STATUS

63/100  Partly Free

Global freedom statuses are calculated on a weighted scale. See the methodology.
Overview

Mexico has been an electoral democracy since 2000, and alternation in power between parties is routine at both the federal and state levels. However, the country suffers from severe rule of law deficits that limit full citizen enjoyment of political rights and civil liberties. Violence perpetrated by organized criminals, corruption among government officials, human rights abuses by both state and nonstate actors, and rampant impunity are among the most visible of Mexico’s many governance challenges.

Key Developments in 2019

- President Andrés Manuel López Obrador, who took office in 2018, maintained high approval ratings through much of the year, and his party consolidated its grasp on power in June’s gubernatorial and local elections. López Obrador’s polling position began to wane late in the year, as Mexico’s dire security situation affected voters’ views on his performance.
- In March, the government created a new gendarmerie, the National Guard, which officially began operating in June after drawing from Army and Navy police forces. Rights advocates criticized the agency, warning that its creation deepened the militarization of public security.
- The number of deaths attributed to organized crime remained at historic highs in 2019, though the rate of acceleration slowed. Massacres of police officers, alleged criminals, and civilians were well-publicized as the year progressed. The challenge to state authority was illustrated dramatically in October, when soldiers and police were forced to release an accused drug kingpin in Sinaloa after a violent running battle with cartel members.
- Mexico bowed to American pressure and agreed to detain, deter, and deport asylum seekers and migrants traveling through Mexico to its border with the United States in May and June, after President Donald Trump threatened to impose punitive tariffs. The government ordered nearly half the new National
Guard to enforce this policy, partially diverting it from its crime-fighting mandate.

Political Rights

A. Electoral Process

A1  0-4 pts

| Was the current head of government or other chief national authority elected through free and fair elections? | 3/4 |

The president is elected to a six-year term and cannot be reelected. However, a constitutional amendment, which was not fully ratified as of the end of 2019, may allow citizens the opportunity to recall a president halfway through their term.

Andrés Manuel López Obrador of the left-leaning National Regeneration Movement (MORENA) won the 2018 poll with a commanding 53 percent of the vote. His closest rival, Ricardo Anaya—the candidate of the National Action Party (PAN) as well as of the Democratic Revolution Party (PRD) and Citizens’ Movement (MC)—took 22 percent. The results of the 2018 poll represented a stark repudiation of the outgoing administration of President Enrique Peña Nieto and the Institutional Revolutionary Party (PRI); the party’s candidate, José Antonio Meade, took just 16 percent of the vote.

The election campaign was marked by violence and threats against candidates for state and local offices, with a final tally of at least 145 election-related deaths. Accusations of illicit campaign activities remained frequent at the state and municipal level.

A2  0-4 pts

| Were the current national legislative representatives elected through free and fair elections? | 3/4 |
Senators are elected for six-year terms through a mix of direct voting and proportional representation, with at least two parties represented in each state’s delegation. In the Chamber of Deputies, the lower house of the bicameral Congress, 300 members are elected through direct representation and 200 through proportional representation, each for three-year terms. Under 2013 electoral reforms, current members of Congress are no longer barred from reelection and candidates are permitted to run as independents. For legislators elected in 2018, senators will be eligible to serve up to two six-year terms, and deputies will be permitted to serve up to four three-year terms.

In the 2018 elections, MORENA achieved a 255-seat majority in the Chamber of Deputies, and with the support of its coalition allies, the Workers’ Party (PT) and the Social Encounter Party (PES), held just over 300 seats. The PAN won 79 seats, while the PRI plummeted from winning 202 seats in the 2015 midterms to just 47 seats in 2018. Similarly, the MORENA-led coalition now commands a clear majority in the 128-member Senate with 70 seats, compared to 24 for the PAN and 15 for the PRI.

Accusations of illicit campaign activities are frequent at the state level, and violations including vote buying, ballot stealing, and misuse of public funds were reported in 2018.

**A3 0-4 pts**

Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies?

3/4

Mexico’s National Electoral Institute (INE) supervises elections and enforces political party laws, including strict regulations on campaign financing and the content of political advertising, although control is uneven in practice. While the 2018 elections were generally considered free and fair, the INE and the Federal Electoral Tribunal (TEPJF) struggled to comprehensively address problems including misuse of public funds, vote buying, and ballot stealing, and to ensure transparent campaign finance. Subsequent steps by MORENA to cut the INE’s budget and shorten the terms of its directors while writing Mexico’s 2020 budget prompted accusations that the
administration sought to lessen electoral oversight and give itself an advantage in future elections.

President López Obrador has extolled the use of referendums known as citizen consultations, which are not supervised by the INE. A series of consultations in 2018 and 2019 on infrastructure and social spending offered few protections against fraud, and featured the participation of a small proportion of Mexican voters. As 2019 progressed, Congress incorporated those consultations into a new constitutional reform package, including a mechanism to allow for the recall of the president. Opponents criticized the measures, particularly the presidential recall, which they claimed was a way for López Obrador to boost MORENA candidates in the 2021 midterm elections or even rule beyond his own mandate. The amendments were amended in the Senate to address opposition concerns before the chamber approved them in November 2019. The amendments awaited state-level ratification at year’s end.

**B. Political Pluralism and Participation**

**B1  0-4 pts**

| Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? | 4/4 |

Mexico’s multiparty system features few official restrictions on political organization and activity. Although the 2018 elections left the opposition moribund at the national level, opposition parties are competitive in some states, and independent candidacies are becoming more common. President López Obrador’s victory also reflected the political system’s growing openness to pluralistic competition, and ended fears on the left that powerful actors would block their electoral path to power.
Victories in the gubernatorial races in 2019, in Baja California and Puebla, reinforced MORENA’s gradually growing strength at the subnational level. MORENA officials now govern six states and Mexico City, and control 20 of the 32 state legislatures.

**B2  0-4 pts**

| Is there a realistic opportunity for the opposition to increase its support or gain power through elections? | 4/4 |

Power has routinely changed hands at the national level since 2000. The dominant victory of López Obrador and MORENA in 2018 followed six years of government control by the PRI, which had ruled Mexico without interruption from 1929 to 2000, before losing consecutive presidential races to the right-leaning PAN in 2000 and 2006.

In 2019, analysts, MORENA opponents, and the INE sharply criticized a law passed by the Baja California legislature that retroactively extended the term of its new governor, Jaime Bonilla, to five years from the two-year term he won in June. The law was swiftly challenged, with the Federal Electoral Tribunal unanimously finding it unconstitutional in a written opinion delivered to the Supreme Court in December.

**B3  0-4 pts**

| Are the people’s political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapoli tical means? | 2/4 |

Criminal groups, while increasingly fragmented, exert powerful influence on the country’s politics through threats and violence against candidates, election officials, and campaign workers. At least 145 politicians were murdered between fall 2017 and election day in July 2018. Scores of politicians are believed to have withdrawn 2018 candidacies due to fears of violence.

Separately, in states and municipalities with lower levels of multiparty participation, locally dominant political actors often govern in a highly opaque manner that limits
political activity and citizen participation.

**B4  0-4 pts**

| Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? | 3/4 |

Mexico has a large indigenous population, and indigenous people and groups are free to participate in politics. There are some provisions for the integration of traditional community customs in electing leaders, and parties that serve indigenous communities often compete in states with large indigenous populations. However, indigenous people remain underrepresented in political institutions.

The 2018 election confirmed the success of gender requirements for candidacies and party lists: female representatives increased their share of seats in the Chamber of Deputies to 48 percent and in the Senate to 49 percent.

**C. Functioning of Government**

**C1  0-4 pts**

| Do the freely elected head of government and national legislative representatives determine the policies of the government? | 2/4 |

Organized crime and related violence have limited the effective governing authority of elected officials in some areas of the country. Members of organized crime groups have persisted in their attempts to infiltrate local governments in order to plunder municipal coffers and ensure their own impunity. The notorious and still unsolved mass disappearance of 43 students in Iguala in 2014 was linked to a deeply corrupt local government collaborating with a drug gang, as well as a group of corrupt soldiers residing in a nearby barracks. In the most violent regions, the provision of public services has become more difficult, as public-sector employees face extortion and pressure to divert public funds.
Official corruption remains a serious problem. The billions of dollars in illegal drug money that enter the country each year from the United States profoundly affect politics, as does rampant public-contract fraud and other forms of siphoning off state funds. Attempts to prosecute officials for alleged involvement in corrupt or criminal activity have often failed due to the weakness of the cases brought by the state.

The López Obrador administration has pursued corruption more actively than recent administrations, and Transparency International recorded a slight improvement in Mexicans’ perceptions of corruption in 2019 over the previous year. Notably, the NGO also found that 34 percent of study participants reported paying a bribe for public services in 2019, while 51 percent reported the same in 2017. Several prominent figures from the Peña Nieto administration were also indicted or arrested on graft charges during the year. In May, an arrest warrant was issued for the former head of state oil company PEMEX, Emilio Lozoya, along with his mother, wife, and sister. Lozoya remained free at year’s end, but his mother Gilda was arrested in Germany mother and agreed to return to Mexico to mount a legal defense in November. In addition, former urban development minister Rosario Robles was arrested on corruption charges in August; Robles was suspected of wrongdoing throughout her tenure in the Peña Nieto administration.

As 2019 progressed, the former president himself was accused of accepting bribes, notably in proceedings taking place in the United States and not in Mexico. In January, Colombian drug trafficker Alex Cifuentes testified in a US court that Peña Nieto accepted a bribe from Joaquín “El Chapo” Guzmán, who was then on trial for murder. In June, the Securities and Exchange Commission (SEC) received an allegation that Peña Nieto accepted bribes from Emilio Lozoya to allow PEMEX to acquire the operator of a fertilizer plant at an inflated price in 2015.
In December, Genaro García Luna, a feared public security secretary under former president Felipe Calderón, was charged with trafficking cocaine in the United States; García Luna was often accused of collaborating with the Sinaloa cartel during his tenure. However, critics have charged the government with selective prosecution, pointing to the administration’s absolution of Federal Electricity Commission chairman and veteran politician Manuel Bartlett following allegations of questionable asset accumulation.

**C3 0-4 pts**

**Does the government operate with openness and transparency?**

Despite some limitations, several freedom of information laws passed since 2002 have successfully strengthened transparency at the federal level, though enforcement is uneven across states. In recent years, the government has failed to release relevant information on some of the country’s most controversial issues, including abuses by the security forces and the investigation into the missing 43 students in Iguala. Since 2017, Mexican authorities have also remained sluggish in publicizing contracts with the NSO Group, an Israeli firm that sold spyware used to target journalists, lawyers, and activists. In February 2019, the Institute for Transparency, Access to Information, and Protection of Personal Data, a privacy watchdog in Mexico, accused the federal attorney general of stonewalling its investigation for over a year.

However, in October 2019, transparency advocates succeeded in obtaining a list of beneficiaries of tax amnesties between 2007 and 2015; the status of many beneficiaries and the large amounts forgiven prompted allegations of politicized tax practices by previous administrations.

**Civil Liberties**
D. Freedom of Expression and Belief

**D1 0-4 pts**

| Are there free and independent media? | 2/4 |

The security environment for journalists remains highly challenging. Reporters probing police issues, drug trafficking, and official corruption face an increasingly high risk of physical harm. The Committee to Protect Journalists (CPJ) recorded the deaths of five journalists in Mexico in 2019; this represents over half of all murders recorded by the CPJ worldwide that year. Self-censorship has increased, with many newspapers in violent areas avoiding publication of stories concerning organized crime. Press watchdog groups hailed the 2012 federalization of crimes against journalists, as well as a 2015 law in Mexico City aimed at protecting journalists and human rights defenders. However, they have also decried the slow pace of the federal government’s special prosecutor for crimes against freedom of expression since the office gained authority in 2013.

In 2012, pressure from journalists and NGOs prompted former president Felipe Calderón to create a Federal Protection Mechanism for Human Rights Defenders and Journalists within the federal Interior Secretariat. Hundreds of activists and journalists have been successfully protected by this scheme, which has provided safe houses, panic buttons, and bodyguards to enrollees. However, journalists have recently found themselves left out of the underfunded mechanism; the Committee to Protect Journalists (CPJ) counted 122 journalists in the federal protection scheme in 2017, but the number fell to 27 by 2019.

Despite improvements in legal status, community radio stations continue to face occasional harassment from criminals and state authorities.
News coverage in many media outlets is affected by dependence on the government for advertising and subsidies. In 2017, the Supreme Court ordered Congress to regulate the distribution of government advertising. Congress complied with new legislation in April 2018 and President López Obrador promised to cut public spending on advertising during his election campaign that year, but media watchdogs criticized a subsequent 2019 guidance as inadequate. Throughout the year, López Obrador has also used daily morning news conferences to dominate news cycles, using the bully pulpit to chastise and denigrate specific reporters and news outlets.

Broadcast television has been dominated by the duopoly of Televisa and TV Azteca since the 1990s, but efforts to liberalize this market resumed in 2013 with the establishment of the Federal Economic Competition Commission and the Federal Telecommunications Institute (IFT). In 2015, the IFT issued licenses for two free-to-air broadcast operators; of these, Imagen Televisión still broadcasts in Mexico.

Mexico has been at the forefront of citizen-led efforts to ensure internet access. The government amended Article 6 of the constitution in 2013 to make access to the internet a civil right. However, gangs have targeted bloggers and online journalists who report on organized crime, issuing threats and periodically murdering online writers.

**D2  0-4 pts**

| Are individuals free to practice and express their religious faith or nonbelief in public and private? | 4/4 |

Religious freedom is protected by the constitution and is generally respected in practice, though religious minorities, particularly indigenous Evangelical communities in Chiapas, face occasional persecution by local authorities.

**D3  0-4 pts**

| Is there academic freedom, and is the educational system free from extensive political indoctrination? | 4/4 |
The government does not restrict academic freedom, though university students and some academics are occasionally threatened for their political activism.

**D4 0-4 pts**

| Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? | 3/4 |

While there are no formal impediments to free and open discussion, fear of criminal monitoring restricts citizens’ willingness to converse publicly about crime in some areas of the country.

**E. Associational and Organizational Rights**

**E1 0-4 pts**

| Is there freedom of assembly? | 3/4 |

Constitutional guarantees regarding free assembly and association are largely upheld, and protests are frequent. However, political and civic expression is restricted in some regions, and in recent years have resulted in violence against protesters which at times has been deadly. Human rights watchdogs expressed concern that the National Use of Force Law, which enabled the creation of the National Guard in May 2019, would allow members to abuse protesters. Concerns about the law were voiced again in October, when Amnesty International criticized it in an *amicus curie* brief to the Supreme Court.

**E2 0-4 pts**

| Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? | 2/4 |
Although highly active, nongovernmental organizations (NGOs) sometimes face violent resistance; the Office of the UN High Commissioner for Human Rights counted 13 activist deaths by October 2019. Environmental activists and representatives of indigenous groups contesting large-scale infrastructure projects have been particularly vulnerable; the February murder of Samir Flores, an opponent of thermoelectric and pipeline construction in Morelos, produced outrage and demonstrations in Mexico City.

The Federal Protection Mechanism for Human Rights Defenders and Journalists has provided physical security for activists since its 2012 inception, protecting hundreds of individuals since its launch. However, rights groups consider it sluggish and subject to government neglect. The protection scheme has also run low on funds, nearly exhausting its budget in 2017 and 2018.

Revelations emerged in 2017 that a number of civil society activists had been the victims of attempts to spy on their electronic communications, presumably by government agencies. Although the investigation remains active, there was little visible progress toward accountability for the spying in 2019.

Civil society members are able to freely criticize state policies, but López Obrador’s penchant for dismissing criticism and insulting perceived opponents has generated rising tension between the president and NGOs.

<table>
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<td>Is there freedom for trade unions and similar professional or labor organizations?</td>
<td>2/4</td>
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Trade union membership has diminished significantly in recent decades. In May 2019 a major labor reform took effect, bringing hope of an end to the rampant use of informal, nontransparent negotiations between employers and politically connected union leaders that resulted in “protection contracts” never seen by workers. In a sign that the law would facilitate increased pressure on the old guard, longtime oil workers’ union chief Carlos Romero Deschamps resigned in 2019 while under investigation for corruption.
F. Rule of Law

F1  0-4 pts

**Is there an independent judiciary?**

2/4

Mexico’s justice system is plagued by delays, unpredictability, and corruption, leading to impunity. A 2008 constitutional reform replaced the civil-inquisitorial trial system with an oral-adversarial one. Although implementation has slowly proceeded and some elements of due process have improved, human rights groups have raised concerns about ongoing deficiencies, including questions about judicial impartiality and training. Implementation of the new system was technically completed in 2016, but deficient training and a lack of commitment to the initiative by authorities have produced poor prosecutorial results. The Supreme Court is generally regarded as independent, but several 2019 appointments of justices viewed as close to the government raised concerns about diminished autonomy. One appointment was to replace Justice Eduardo Medina Mora, who resigned in October while under investigation for corruption.

F2  0-4 pts

**Does due process prevail in civil and criminal matters?**

1/4

Lower courts—and law enforcement in general—are undermined by widespread bribery and suffer from limited capacity. According to a government survey released in September 2019, the vast majority of crimes committed in 2018 went unreported, in large part because the underpaid police were viewed as either inept or in league with criminals. Even when investigations are conducted, only a handful of crimes end in convictions.
Mexicans are subject to the threat of violence at the hands of several actors, including individual criminals, drug cartels that operate with impunity, and police officers who are often susceptible to bribery. Mexicans are particularly vulnerable to enforced disappearances, which remains a tremendous challenge for the government despite efforts to address the missing-persons backlog in recent years. In addition, Mexicans in police custody are at risk of torture by the authorities, and must also navigate a prison system where due process and physical safety are in short supply.

Abuses during criminal investigations are rife; in 2015, a UN special rapporteur released a report characterizing torture as “generalized” within Mexican police forces. In 2017, a comprehensive General Law on Torture established a prohibition on the use of torture and disqualified evidence obtained through its use. Rights advocates suggest it has contributed to mild progress in excluding torture-based confessions from prosecutions, but remain concerned about gaps in implementation.

Human rights advocates have consistently expressed concern about a lack of accountability for rights abuses committed by members of the military, including torture, forced disappearances, and extrajudicial executions. Only a handful of soldiers have been convicted in civilian courts for abuses against civilians. In recent years, the National Human Rights Commission (CNDH) has gained the government some credibility on this subject, in part by issuing reports implicating state security forces in grave human rights abuses. In November, the Senate named a close ally of the president as the CNDH’s new leader, generating fears for the agency’s independence. The Office of the UN High Commissioner for Human Rights (OHCHR) also voiced concerns for human rights in Mexico, criticizing the country for its inability to adopt a National Program on Torture and criticizing the use of soldiers in public security operations in a May 2019 statement.

Forced disappearances and killings remain a pervasive problem in Mexico, despite recent efforts to combat the problem. In 2017, Congress passed a General Law on Disappearances, which removed the statute of limitations on missing-persons crimes.
The new law also established a national mechanism for investigating such cases, which numbered over 40,000 as recently as March 2019. The National Search Committee, which was established in 2018, announced the discovery of over 4,800 bodies in graves throughout the country when it released its first tally in August.

The kidnapping and presumed deaths of 43 students in rural Iguala in 2014 remains controversial, with President López Obrador creating a presidential commission to investigate the case after taking office. More assistance came in April 2019, when the OHCHR agreed to support for the presidential commission. In June, a new special prosecutor was also assigned to manage the case. Nevertheless, the government was unable to close the matter by year’s end. Instead, at least 77 of the 142 detained in connection with disappearances were released by September, often because they were subject to torture while in custody.

As in previous years, the government’s primary response to insecurity was the deployment of militarized forces to hotspots. In the spring of 2019, President López Obrador introduced a new gendarmerie that would draw from the Army, Navy, and federal police, and would rely on military officers for its top ranks. The new National Guard was sharply criticized by rights advocates when it launched in June, fearing it would lead to the militarization of public security. Amnesty International also criticized its enabling legislation when it was passed by the Senate in May, for allowing the National Guard to determine whether any encountered protests are of “legitimate purpose” and whether to respond with force.

Nevertheless, the number of deaths attributed to organized crime remained at historic highs in 2019, though the rate of acceleration slowed. Violence remained acute in Colima, Baja California, Chihuahua, Morelos, Guanajuato, and Michoacán. Several mass killings sparked widespread outcry, including the murder of 14 people attending a family party in the southeastern city of Minatitlán in April, the deaths of at least 26 patrons at a bar set ablaze in the port city of Coatzacoalcos in August, and the deaths of 14 Michoacán state police officers in October.

An effort to capture drug kingpin Ovidio Guzmán, a son of cartel leader Joaquín “El Chapo” Guzmán, in the Sinaloa state capital of Culiacán caused particular controversy
in October 2019. After a National Guard patrol captured Guzmán, they were surrounded by heavily armed cartel members, who overpowered the patrol and forced them to surrender Guzmán. At least 13 people were killed and 49 prisoners escaped in the fighting, generating widespread anguish over the government’s failure to keep Culiacán secure.

The November 2019 killing of nine members of the LeBarón family, who live in a Mormon community in Sonora State, garnered attention in the United States and Mexico. The LeBarón family, many of whom maintain dual citizenship, has been targeted by local drug cartels for at least a decade, with a drug lord allegedly previously ordering the murder of two members in 2009. By year’s end, federal prosecutors detained seven suspects in the 2019 killings, one of them a local police chief allegedly in the pay of the La Linea drug gang.

The year closed with another violent running battle, this time in the northern town of Villa Union in late November 2019. Cartel members arrived in armored trucks and attacked the town hall, prompting an army counterattack. When the battle ended, at least 21 were dead, including 13 fighters and 2 civilians kidnapped by the cartel.

Mexican prisons remain unsafe, with inmates commonly engaging in criminal activity while incarcerated. In November, inmates affiliated with the Sinaloa cartel orchestrated a string of violence from their prison in Juárez; 91 people in Ciudad Juárez were subsequently murdered in a two-week span. The Topo Chico prison, the site of a string of riots and escapes during its operation, was closed in September 2019, but inmates remain at risk elsewhere. In August, three inmates died when a fire swept through a Mexico City jail. Another six were killed during a riot in a prison in Morelos State in October.

Several alternative approaches to the violence epidemic, including amnesty for low-level offenders, an end to the strategy of targeting kingpins, and drug law reform, remained under discussion during by year’s end.
segments of the population?

Mexican law bans discrimination based on ethnic origin, gender, age, religion, and sexual orientation. Nevertheless, the large indigenous population has been subject to social and economic discrimination, and at least 70 percent of indigenous people live in poverty. Southern states with high concentrations of indigenous residents suffer from particularly deficient services. Indigenous groups have been harmed by criminal violence. In recent years, communities in Guerrero and Michoacán have formed self-defense groups, some of which were subsequently legalized.

Mexican law has strong protections for LGBT+ people, but they are not uniformly enforced. Transgender women in particular face discrimination and violence.

Migrants from Central America, many of whom move through Mexico to reach the United States, have long faced persecution and criminal predation. The López Obrador administration initially sought to protect migrants, but reversed course when the United States threatened to seal its border with Mexico and institute punitive tariffs in the spring of 2019. In response to the Trump administration’s threats, Mexico deployed its National Guard to arrest the northern flow of migrants, established immigration checkpoints along major roads, and raided migrant shelters in the country.

The government also cooperated with the implementation of Migrant Protection Protocols (MPP), a US policy that forces asylum seekers to remain in Mexico until their cases are processed. As a result, as many as 56,000 have been forced to wait in border cities like Ciudad Juárez and Nuevo Laredo for their hearings, finding themselves at risk of kidnapping and extortion in the interim.

Score Change: The score declined from 2 to 1 because threats of border closure from the United States prompted Mexico to close migration pathways and limit migrants’ ability to seek asylum in the United States, resulting in an increase in abuses against them.
G. Personal Autonomy and Individual Rights

G1 0-4 pts

Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 3/4

Citizens are generally free to change their place of residence, employment, or education. However, criminals have impeded freedom of movement by blocking major roads in several states in recent years, and ordinary citizens avoid roads in many rural areas after dark.

G2 0-4 pts

Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 2/4

Property rights in Mexico are protected by a modern legal framework, but the weakness of the judicial system, frequent solicitation of bribes by bureaucrats and officials, and the high incidence of criminal extortion harm security of property for many individuals and businesses. Large-scale development projects have been accompanied by corruption and rights-related controversy in recent years, exemplified in 2019 by disputes over high-priority López Obrador initiatives to develop a new airport at a military base north of Mexico City and a train line that would primarily serve tourists in the Yucatan Peninsula.

G3 0-4 pts

Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 3/4
Sexual abuse and domestic violence against women are common, and perpetrators are rarely punished. Implementation of a 2007 law designed to protect women from such crimes remains halting, particularly at the state level, and impunity is the norm for the killers of hundreds of women each year. State authorities can issue “gender alerts” that trigger greater scrutiny and an influx of resources to combat an epidemic of violence against women, but the mechanism has failed to stem rising violence. As of November, seven states, including Baja California, have declined to issue these alerts. López Obrador’s government was nevertheless criticized women’s rights activists in 2019 when it cut funding for women’s shelters.

In August, several reports of rape by Mexico City police officers led to a series of large demonstrations protesting violence against women, the second such round of protests by women in the capital in three years. In November, Mexico City’s government promised to increase its local budget for women’s care centers, while the federal government unveiled a plan to combat violence and promote gender equality the same month.

Abortion has been a contentious issue in recent years. Many states reacted to Mexico City’s 2007 liberalization of abortion laws by strengthening their own criminal bans on the procedure, but in September 2019 Oaxaca became the second state to decriminalize first-trimester abortions. President López Obrador’s amnesty bill, which was sent to Congress that same month, would cover women who sought abortions, along with the doctors who performed them.

Mexico has taken significant steps toward LGBT+ equality, beginning with a 2015 Supreme Court ruling overriding state laws defining the purpose of marriage as procreation; by 2019, Mexico City and 18 other states have legalized same-sex marriage. LGBT+ rights have continued to expand in 2019 through judicial review: in May, the Supreme Court also ruled that a same-sex couple should be allowed to register their child in the Aguascalientes State. In July, a federal judge in Querétaro State ruled that transgender residents had the right to change their names and gender identities with the state’s civil registry, making Querétaro the eighth state to legally recognize these rights.
Economic opportunity is limited in Mexico, which maintains a high rate of economic inequality. Migrant agricultural workers face brutally exploitative conditions in several northern states. In 2018, the Supreme Court ruled that Mexico’s millions of domestic workers—the vast majority of whom are women—must be incorporated into the formal sector and receive social security and health benefits.

Mexico is a major source, transit, and destination country for trafficking in persons, including women and children, many of whom are subject to forced labor and sexual exploitation. Organized criminal gangs are heavily involved in human trafficking in Mexico and into the United States. This danger was exacerbated in 2019 when the United States began denying entry to asylum seekers presenting themselves at the border, forcing as many as 56,000 to wait in nearby cities like Ciudad Juárez.

**Country Facts**

Global Freedom Score

**62/100**  Partly Free

Internet Freedom Score

**60/100**  Partly Free
Other Years

2019

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Tab. 12.
VIOLENCIA EXTREMA
VIOLENCIA EXTREMA
Los asesinatos de personas lgbt en México: los saldos del sexenio (2013-2018)
Dedicado a
Arturo Díaz Betancourt
(1956-2011)

Iniciador de este proyecto y pionero en la lucha contra los crímenes de odio en México.

Publicado en México, mayo de 2019
Este documento puede ser reproducido parcial o totalmente siempre y cuando se cite la fuente

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</table>
A pesar de los avances que se han dado en los últimos años en el reconocimiento de derechos a las personas LGBT+ en México, las diversas manifestaciones de violencia ejercida en su contra no solo no disminuyeron en el sexenio pasado, sino que incluso existen indicios de que se incrementaron. Lamentablemente desconocemos el alcance y la magnitud del problema debido a la ausencia de sistemas oficiales de recolección de datos que puedan dar cuenta de las particularidades y las tendencias de este tipo específico de violencia.

Lo que sí conocemos es el contexto social de discriminación e intolerancia hacia las diversidades sexuales y de género que no ha cambiado en el país en los últimos años. De acuerdo con una encuesta del Conapred y la CNDH, 6 de cada 10 personas LGBT+ encuestadas sufrió discriminación durante el último año. Y más de la mitad, 53 por ciento, reporta haber sufrido expresiones de odio, agresiones físicas y acoso. Además, casi una tercera parte, 30 por ciento, sufrió tratos arbitrarios y discriminatorios por parte de la policía debido a su orientación sexual o identidad y expresión de género.

---

1 Encuesta sobre discriminación por motivos de orientación sexual e identidad de género 2018. CONAPRED/CNDH.
De acuerdo con una encuesta del Conapred y la CNDH, 6 de cada 10 personas LGBT+ encuestadas sufrió discriminación durante el último año.

Este contexto social de rechazo e intolerancia provoca que las personas LGBT+ vivan o estén expuestas a una violencia cotidiana en los diferentes ámbitos en los que se desenvuelven tan solo por expresar lo que son y lo que sienten. Sin embargo, debido al temor a que se revele su orientación sexual, a sufrir revictimización o por desconfianza hacia las instituciones de procuración de justicia, muchas personas LGBT+ prefieren no denunciar cuando han sido víctimas de actos de discriminación y de violencia.

La falta de estadísticas y datos oficiales conlleva, a su vez, a la desatención del problema por parte de las instituciones de gobierno. Para solventar en parte esta omisión, nuestra organización Letra S, Sida, Cultura y Vida Cotidiana se ha dado a la tarea de recolectar y registrar desde 1998 los datos de la violencia más extrema, la violencia letal en contra de personas LGBT+, con la creación de la Comisión Ciudadana de Crímenes de Odio por Homofobia, con los pocos recursos con los que contamos. No con el objetivo de suplantar una responsabilidad del Estado, cosa por demás imposible, sino con el propósito de dar visibilidad a un problema social poco valorado y ejercer presión hacia las instituciones estatales para que asuman dicha responsabilidad.

Nos propusimos incidir en la agenda de los medios de comunicación para poder incidir a su vez, a manera de reacción en cadena, en las agendas políticas, legislativas, judiciales y de derechos humanos de las diferentes instituciones del Estado.

Hoy nos complace presenciar avances legislativos y en políticas públicas en esa dirección: en al menos 12 entidades del país los congresos locales han modificado su legislación para incluir al odio como agravante en los delitos de homicidio; algunas procuradurías generales de justicia de los estados han elaborado protocolos específicos de actuación, así como han creado unidades o fiscales especiales de atención a las personas LGBTTT. Como es sabido, en 2015 la Suprema Corte de Justicia de la Nación lanzó su Protocolo de actuación para quienes imarten justicia en casos que involucren la orientación sexual o la identidad de género, y más recientemente, en 2018, se publicó en el Diario Oficial de la Federación el Protocolo de Actuación para el Personal de las Instancias de Procuración de Justicia del País, en casos que Involucren la Orientación Sexual o la Identidad de Género, adoptado por la Conferencia Nacional de Procuración de Justicia.

Sin duda son avances importantes, pero aún son insuficientes para responder adecuadamente a este grave y complejo problema, sustentado en estereotipos y prejuicios sociales muy arraigados, y frente al cual el Estado debe asumir plenamente su obligación de prevenir, investigar, procesar y sancionar los delitos derivados de la violencia ejercida en contra de las personas LGBT+. La inacción de las instituciones del Estado legitima la violencia basada en la orientación sexual y la identidad de género de las víctimas.

Así pues, una vez más, presentamos nuestro Informe anual de asesinatos de personas LGBT que esta vez abarca el sexenio del gobierno de Enrique Peña Nieto, caracterizado por los altos índices de violencia, de homicidios y de feminicidios.

Por último, deseamos expresar nuestro agradecimiento a las organizaciones Colombia Diversa por el apoyo y la inspiración recibidos en la elaboración de este Informe, así como al Centro de Apoyo a las Identidades Trans, que generosamente nos brindó acceso a su base de datos para completar la información concerniente a las mujeres trans asesinadas en algunos de los años incluidos en el periodo que abarca este Informe.
Resumen ejecutivo

En la administración anterior, en el sexenio del gobierno de Enrique Peña Nieto, al menos 473 personas LGBT fueron asesinadas en México por motivos relacionados a la orientación sexual o a la identidad y expresión de género percibida de las víctimas. Esa cifra significa que en promedio al menos 79 personas LGBT son asesinadas al año en nuestro país, lo que equivale a 6.5 homicidios por mes. Los dos últimos años del sexenio fueron los más violentos, ya que muestran un aumento de 30 por ciento del número de homicidios con relación al promedio de los años anteriores. Sin embargo, debemos anotar que la cifra real es superior a la registrada, ya que las notas periodísticas, en las que se basa este Informe, no reportan todos los casos de muertes violentas por homicidios en contra de las personas LGBT.

Las mujeres trans o personas trans con expresión femenina son las más expuestas a sufrir actos de violencia homicida, ya que fueron las víctimas más numerosas con 261 transfeminicidios, lo que representa 55% del total; seguidas de los hombres gay/homosexuales, con 192 casos, 40% del total. Así mismo, se registraron los feminicidios de 9 mujeres lesbianas; los homicidios de 5 hombres bisexuales, o percibidos como tales; y el feminicidio de una mujer bisexual o percibida como tal.

El promedio general de edad de las víctimas fue de 34 años. En los casos de las mujeres trans el promedio de edad fue de 32 años, menor al promedio general; mientras que el promedio de edad de hombres gay/homosexuales fue de 37 años. En los casos de las demás orientaciones sexuales no resulta relevante establecerlo por el reducido número de víctimas identificadas.
Al menos 22 de las víctimas habría sufrido violencia sexual antes o después de ser asesinada, y los cuerpos de al menos 60 de las víctimas aparecieron con “marcas de tortura” o señales claras de ensañamiento.

De las cifras obtenidas destaca que 24 personas defensoras o promotoras de los derechos LGBT fueron asesinadas en todo el sexenio pasado; así mismo, 9 eran portadoras del VIH; y 4 eran migrantes centroamericanas.

Por entidades de la república, los resultados destacan que siete estados concentran casi la mitad de los asesinatos LGBT. Veracruz encabeza la lista con al menos 43 asesinatos, seguido por Guerrero con 39, Quintana Roo con 33, Estado de México con 30, Chihuahua con 28, Puebla con 27, y Tamaulipas con 25.

Los patrones de violencia se dan en función de la identidad sexual y de género de las víctimas. Mientras que la mayoría de los cuerpos de los hombres gay/homosexuales fueron encontrados en sus domicilios con múltiples heridas provocadas por objetos punzocortantes o asfixiados, los cuerpos de las mujeres trans fueron encontrados en la vía pública o en lotes baldíos con heridas provocadas por armas de fuego y punzocortantes. Llama la atención que 6 de las mujeres lesbianas fueron ultimadas junto con su pareja o en presencia de su pareja.

El rasgo distintivo que caracteriza a los homicidios de personas LGBT es el ensañamiento con el que son cometidos. Los resultados del monitoreo dan cuenta de las múltiples violencias a las que fueron sometidas muchas de las víctimas antes de ser asesinadas o la saña a la que fueron sometidos sus cuerpos ya sin vida. Al menos 22 de las víctimas habría sufrido violencia sexual antes o después de ser asesinada, y los cuerpos de al menos 60 de las víctimas aparecieron con “marcas de tortura” o señales claras de ensañamiento.

En cuanto a las líneas de investigación seguidas por las fiscalías y procuradurías estatales, destaca la poca relevancia que conceden a la orientación sexual y a la identidad de género de las víctimas en sus pesquisas, y cuando se la otorgan lo hacen de manera prejuiciada. Al respecto, sólo en 10% de los casos se menciona al crimen de odio como posible línea de investigación. En contraste, el estereotipo de “crimen pasional” (término cargado de prejuicios) figura como la principal línea de investigación en 26.5% de los homicidios. Y en el contexto de violencia generalizada que vive el país, destacan los 24 asesinatos de personas LGBT, víctimas del crimen organizado.

Así mismo, se identificaron 136 presuntos responsables de los homicidios, lo que equivaldría a solo una tercera parte del número total de víctimas LGBT registradas, cuyo promedio de edad fue de 24 años. Promedio de edad menor al de sus víctimas. De ellos, solo 14 habían recibido sentencia condenatoria al momento de realizar el monitoreo y 6 fueron liberados debido a fallas o deficiencias en el proceso cometidas por los ministerios públicos.

De las conclusiones del Informe destaca la necesidad de desarrollar sistemas o mecanismos de registro oficiales, por parte de las instituciones de seguridad del Estado, de este tipo de violencia motivada por el odio/prejuicio hacia las orientaciones sexuales e identidades de género de las víctimas. En particular la de crear el Registro Nacional de Incidencia Delictiva en contra de personas LGBTI, contemplado por la FGR en su Protocolo de Actuación sobre la materia.
En la elaboración del presente informe se monitorearon medios de comunicación electrónicos de toda la república mexicana y se consultaron más de 1150 notas informativas publicadas de enero de 2013 a diciembre de 2018 para identificar los asesinatos de personas LGBT reportados por la prensa. El contenido de las notas fue revisado y clasificado en una base de datos dividida en 6 secciones y 28 unidades de análisis o variables donde se registró la información sobre la orientación sexual/identidad de género percibida de las víctimas; sus perfiles sociodemográficos tales como la edad, la ocupación profesional, pertenencia a un grupo étnico, entre otras; las características diferenciales tales como la discapacidad, el tener VIH, situación de calle, condición migratoria, defensor(a) de derechos humanos, etcétera; así como sobre las circunstancias de tiempo, modo y lugar en que se dieron los hechos, tales como el lugar en el que apareció el cuerpo, la causa de muerte, las armas utilizadas, si hubo violencia sexual y/o tortura, etcétera. Así mismo, también incluimos información sobre las líneas de investigación seguidas por las autoridades responsables.

Debido a que la fuente principal de este informe son notas informativas, no se tiene la certeza de que las víctimas representadas en dichos contenidos se identifiquen con la orientación sexual/identidad de género señalada por los periodistas, ya que resulta imposible conocer la manera en la que éstas se asumían en vida. De este modo, se hace la aclaración de que la orientación sexual y la identidad de género de las personas registradas en la base de datos son las percibidas por la o el reportero del medio de comunicación a partir de la información oficial proporcionada por la autoridad responsable de las investigaciones o de la información proporcionado por informantes no oficiales. Para más información al respecto de este tema consultar el informe Violencia contra Personas Lesbianas, Gay, Bisexuales, Trans e Intersex en América, p 40. CIDH, 2015.

Se dividieron los casos por grupos de edad para facilitar su manejo e interpretación.
Se consultaron más de 1150 notas informativas publicadas de enero de 2013 a diciembre de 2018 para identificar los asesinatos de personas LGBT reportados por la prensa.

Adicionalmente, se presenta información general sobre las personas detenidas o identificadas como presuntos responsables de los asesinatos; por ejemplo, el grupo de edad al que pertenecen, el estado en el que se encuentra su proceso judicial (si lo hay) y el tipo de relación que sostenían con la víctima.

En la selección de notas, tanto de víctimas como de presuntos victimarios, formulamos una serie de criterios, propios y fundamentados en el trabajo de organizaciones locales e internacionales, que nos permitieron descartar aquellos casos que no cumplieran un mínimo de elementos para ser considerados dentro del informe. De esta manera, bajo estos criterios, todos los casos de la selección final fueron ratificados uno por uno para comprobar su pertinencia en la investigación. Para el procesamiento de la información se utilizó el programa estadístico SPSS 24.0.

Por otro lado, estamos conscientes de las limitaciones que presenta un informe de esta naturaleza basado solo en reportes de la prensa escrita, entre otras presenta las siguientes:

- Los medios informativos no reportan la totalidad de homicidios cometidos en contra de las personas LGBT, por lo mismo, la cifra final de casos obtenida solo podrá ser considerada como una muestra de la cifra real.
- La escasa información que proporcionan las notas de prensa. No todas las notas contienen toda la información requerida por la base de datos. Y son excepciones los medios informativos que suelen dar seguimiento en el tiempo a los casos reportados.
- La imprecisión en algunos de los datos que se manejan en las notas de prensa, que pueden diferir en cuanto a la información que proporciona un medio informativo de otro. Algunos de los datos son producto de las inferencias realizadas por quienes redactan las notas o por quienes investigan los homicidios.
- El sesgo prejuiciado con que algunos de los medios de comunicación reportan los casos de homicidios contra personas LGBT.

Ante estas limitaciones, lo ideal sería cotejar la información obtenida en este reporte con la información registrada por cada una de las fiscalías o procuradurías de justicia estatales. Sin embargo, las dificultades y complejidades que entraña dicha labor rebasan nuestras posibilidades. Sobre todo, porque no existen registros oficiales de este tipo de homicidios.

Por las limitaciones señaladas, los resultados de este Informe no pueden considerarse representativos del estado que guarda el problema en el país. Sin embargo, creemos que, a pesar de las limitaciones señaladas, un informe de este tipo otorga visibilidad pública a un tipo de violencia poco valorado por la sociedad y por las instituciones de gobierno, proporciona información valiosa sobre los grupos de la población LGBT más afectados por la violencia homicida, señala tendencias y brinda información sobre los modus operandi de los tipos específicos de violencia basada en la orientación sexual, la identidad y/o expresión de género.

Violencia Extrema

Resultados

Al menos 473 personas LGBT fueron asesinadas presuntamente por motivos relacionados a la orientación sexual, la identidad y/o la expresión de género real o percibida de las víctimas en todo el sexenio del gobierno de Enrique Peña Nieto, en el periodo que va de 2013 a 2018 (véase tabla 1). Distribuidos los casos por año, resalta el incremento del número de asesinatos LGBT registrados en los dos últimos años en comparación con los años anteriores. Lo que significa un incremento de 30 por ciento en relación con el promedio de los cuatro años anteriores.


<table>
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<tr>
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>84</td>
<td>65</td>
<td>61</td>
<td>76</td>
<td>95</td>
<td>92</td>
<td>473</td>
</tr>
</tbody>
</table>

De las cifras generales se desprende que en el sexenio pasado en promedio fueron asesinadas al menos 79 personas LGBT por año, lo que equivale a 6.5 homicidios por mes en todo el periodo 2013-2018.
1. Perfil de las víctimas

Por su orientación sexual o identidad de género percibida de las víctimas, las mujeres trans (travestis, transexuales y transgénero) son las que reportan el mayor número de asesinatos con al menos 261 víctimas, lo que representa 55% del total de casos; seguidas de los hombres gay/homosexuales con al menos 192 homicidios, representando 40% de los casos; 9 mujeres lesbianas, 1.9% de las víctimas; 5 hombres bisexuales, 1.1% del total, y una mujer bisexual.

<p>| Tabla 2. Orientación sexual/identidad de género percibida de las víctimas (2013-2018) |
|----------------------------------|--------|----------------|----------------|----------------|----------------|--------|</p>
<table>
<thead>
<tr>
<th>Frecuencia</th>
<th>Gay/Hombre homosexual</th>
<th>Lesbian/Hombre homosexual</th>
<th>Mujer trans</th>
<th>Mujer Bisexual</th>
<th>Hombre Bisexual</th>
<th>Otro</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>40.6%</td>
<td>9</td>
<td>261</td>
<td>1</td>
<td>5</td>
<td>5</td>
<td>473</td>
<td></td>
</tr>
</tbody>
</table>

Al hacer el cruce de los asesinatos de personas LGBT por año y por orientación sexual e identidad de género, resulta que el incremento de los casos en los dos últimos años se ha dado fundamentalmente en las mujeres trans y en las mujeres lesbianas.

En la designación de “mujeres trans” estamos incluyendo a las personas percibidas como travestis, transgénero y transexuales debido a que resulta imposible hacer una diferenciación clara entre estas tres identidades a partir de la información proporcionada por las notas de prensa.

En esta categoría están incluidas cinco víctimas masculinas que fueron violadas antes de ser asesinadas por el multihomicida Andrés Ulises Castillo Villagrán, a quien la policía menciona que podría estar relacionado con otros 12 homicidios en Chihuahua. En las notas de prensa solo se identifica a estas cinco víctimas por su sexo: hombres, y se proporcionan sus nombres, pero no se hace referencia alguna a su orientación de sexual o a su identidad de género. Por tal motivo, se incluyeron en la base de datos bajo la categoría “Otros” al no contar con mayores elementos para su identificación.

Resulta necesario aclarar que el número de víctimas lesbianas y mujeres bisexuales está subreportado en las notas de prensa, dado que la cobertura mediática de la violencia contra las mujeres suele referirse sólo al género de las víctimas y no a su orientación sexual. De esta manera, los posibles casos de asesinatos de mujeres lesbianas y bisexuales serían abordados por los medios solo en función del género, como “violencia de género” o como “feminicidios”, y no en función de su orientación sexual, y así quedar invisibilizados en los reportes de prensa.

Otro tanto sucede con los casos de hombres bisexuales, existe una dificultad mayor de documentar la violencia que se ejerce en contra de ellos, ya que por lo regular suelen ser percibidos como hombres gay u homosexuales.

Son muy contados los casos en los que periodistas mencionan la bisexualidad de las víctimas varones. Su percepción la basan en la existencia de una pareja de sexo femenino, ya sea la esposa o la novia de la víctima, y no

| Tabla 3. Relación de asesinatos por año y por orientación sexual/identidad de género. |
|----------------------------------|--------|----------------|----------------|----------------|----------------|--------|
| Gay/Hombre homosexual | Lesbian/Mujer homosexual | Mujer trans | Mujer Bisexual | Hombre Bisexual | Total |
| 2013 | 35 | 1 | 46 | 1 | 1 | 0 | 84 |
| 2014 | 31 | 0 | 34 | 0 | 0 | 0 | 65 |
| 2015 | 25 | 0 | 31 | 0 | 0 | 5 | 61 |
| 2016 | 32 | 2 | 42 | 0 | 4 | 0 | 76 |
| 2017 | 36 | 0 | 55 | 0 | 0 | 0 | 95 |
| 2018 | 33 | 6 | 53 | 0 | 0 | 0 | 92 |
| Total | 192 | 9 | 261 | 1 | 5 | 5 | 473 |

Respecto a la invisibilidad de la violencia contra mujeres lesbianas y bisexuales véase el Informe de la CIDH Violencia contra personas LGBTI, pp. 166-169.

CIDH, p. 83
tiene ninguna relación con los hechos delictivos.

Por otro lado, no se registró ningún caso de hombre trans o persona trans con expresión masculina asesinado porque en ninguna nota periodística existe referencia alguna a esta identidad de género. Lo anterior no significa la inexistencia de casos de asesinatos de hombres trans, más bien se debe a la invisibilidad social de esta identidad de género, al desconocimiento de la o el periodista y/o a su acercamiento prejuiciado.

a) Edad de las víctimas

Sobre el grupo de edad al que pertenecían las víctimas, la cifra mayor, 198, se concentra en el rango de edad adulta (30 a 59 años); seguido por las y los jóvenes (18 a 29 años) con 151 casos. Cabe destacar que se identificaron 10 menores de edad; así como 17 personas mayores (60 años o más). En 97 casos no se encontró información sobre la edad de la víctima en las notas de la prensa (véase tabla 4).

<table>
<thead>
<tr>
<th>Tabla 4. Edad de las víctimas</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>Menores de edad (0-17 años)</td>
</tr>
<tr>
<td>Jóvenes (18-29 años)</td>
</tr>
<tr>
<td>Adultos/as (30-59 años)</td>
</tr>
<tr>
<td>Personas mayores (60+ años)</td>
</tr>
<tr>
<td>Total</td>
</tr>
<tr>
<td>S/D</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

La información de la edad adquiere otro matiz cuando se cruza con la variable de la identidad de género/orientación sexual percibida de la víctima. Lo primero que destaca de estos resultados es el mayor número de mujeres trans concentrada en las categorías de jóvenes y menores de edad: 97 víctimas; en contraste, la mayor cifra de hombres gay/homosexuales asesinados se concentra en la categoría de adultos: 96 víctimas. (Véase tabla 5).

| Tabla 5. Relación grupo de edad y orientación sexual/identidad de género percibida: 2013-2018 |

<table>
<thead>
<tr>
<th>Menores de edad</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gay/Hombre homosexual</td>
</tr>
<tr>
<td>3</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Jóvenes (18-29)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gay/Hombre homosexual</td>
</tr>
<tr>
<td>50</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Adultos (30-59)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gay/Hombre homosexual</td>
</tr>
<tr>
<td>96</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Personas mayores de 60 años</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gay/Hombre homosexual</td>
</tr>
<tr>
<td>14</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gay/Hombre homosexual</td>
</tr>
<tr>
<td>163</td>
</tr>
</tbody>
</table>
De esta manera, tenemos que mientras el promedio de edad de las víctimas mujeres trans es de 32 años, el de los hombres gay/homosexuales es de 37.6 años de edad.

b) Ocupación de las víctimas

Sobre la variable de la ocupación y/o profesión de las víctimas, se encontró que del total de notas de prensa que incluyeron información al respecto (251 notas), sobresalen el número de víctimas que se dedicaban al estilismo/peluquería: 54 víctimas; y al trabajo sexual: 52 víctimas; seguidas por la ocupación de empleados(as) públicos y privados con 45 casos. Cabe mencionar que 220 del total de notas informativas consultadas no contenían información sobre esta variable. (Véase tabla 6)

En el cruce de la variable ocupación y/o profesión con la identidad de género y la orientación sexual percibidas de las víctimas, tenemos que al menos 50 mujeres trans trabajadoras sexuales fueron asesinadas en el periodo que comprende este informe; seguido por la cifra de las que se dedicaban al estilismo y/o peluquería con 32 casos.

En cuanto a los hombres gay/homosexuales o percibidos como tales destaca que eran empleados del sector público o privado, o se dedicaban al estilismo/peluquería.

Tabla 6. Ocupación de las víctimas

<table>
<thead>
<tr>
<th>Ocupación</th>
<th>Frecuencia</th>
<th>Porcentaje</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estudiante</td>
<td>15</td>
<td>5.9%</td>
</tr>
<tr>
<td>Artista o artesano</td>
<td>16</td>
<td>6.3%</td>
</tr>
<tr>
<td>Empleado(a) público o privado</td>
<td>45</td>
<td>17.8%</td>
</tr>
<tr>
<td>Profesor(a)</td>
<td>13</td>
<td>5.1%</td>
</tr>
<tr>
<td>Comerciante</td>
<td>15</td>
<td>5.9%</td>
</tr>
<tr>
<td>Estilista y peluquería</td>
<td>54</td>
<td>21.3%</td>
</tr>
<tr>
<td>Empresario(a)</td>
<td>7</td>
<td>2.8%</td>
</tr>
<tr>
<td>Trabajador(a) sexual</td>
<td>52</td>
<td>20.6%</td>
</tr>
<tr>
<td>Desocupado(a)</td>
<td>4</td>
<td>1.6%</td>
</tr>
<tr>
<td>Comunicador(a)</td>
<td>5</td>
<td>2.0%</td>
</tr>
<tr>
<td>Otro*</td>
<td>27</td>
<td>10.7%</td>
</tr>
<tr>
<td>Total</td>
<td>253</td>
<td>100%</td>
</tr>
<tr>
<td>S/D</td>
<td>220</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>473</td>
<td>-</td>
</tr>
</tbody>
</table>

*También se registra ocupaciones tales como: ex alcalde, sacerdote, uniformado, trabajadores de la construcción, trabajadores de partido político, empleados de centros nocturnos, entre otros.

Tabla 7. Relación Ocupación y orientación sexual/identidad de género percibida.

<table>
<thead>
<tr>
<th>Ocupación</th>
<th>Gay/Hombre homosexual</th>
<th>Lesbiana/Mujer homosexual</th>
<th>Hombre Bisexual</th>
<th>Mujer Bisexual</th>
<th>Mujer trans</th>
<th>Otro</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estudiante</td>
<td>10</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>15</td>
</tr>
<tr>
<td>Artista o artesano</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>9</td>
<td>0</td>
<td>16</td>
<td></td>
</tr>
<tr>
<td>Empleado(a)</td>
<td>30</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>11</td>
<td>1</td>
<td>45</td>
</tr>
<tr>
<td>Profesor(a)</td>
<td>12</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td>Comerciante</td>
<td>9</td>
<td>1</td>
<td>0</td>
<td>5</td>
<td>0</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>Estilista y peluquería</td>
<td>22</td>
<td>0</td>
<td>0</td>
<td>32</td>
<td>0</td>
<td>54</td>
<td></td>
</tr>
<tr>
<td>Empresario(a)</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>Trabajador(a) sexual</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>50</td>
<td>0</td>
<td>52</td>
<td></td>
</tr>
<tr>
<td>Desocupado(a)</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Comunicador(a)</td>
<td>5</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Otro</td>
<td>12</td>
<td>2</td>
<td>1</td>
<td>12</td>
<td>0</td>
<td>27</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>117</td>
<td>7</td>
<td>4</td>
<td>123</td>
<td>1</td>
<td>253</td>
<td></td>
</tr>
</tbody>
</table>
peluquería (30 y 22 víctimas, respectivamente). También destaca el número de profesores (universitarios, de bachillerato y de nivel básico) asesinados dentro de esta categoría de orientación sexual, así como de estudiantes: 12 y 10 respectivamente. (Véase tabla 7).

c) Características diferenciales de las víctimas

Además de la identidad y/o expresión de género y la orientación sexual, nos propusimos identificar la intersección con otras características diferenciales de las víctimas que pudieran proporcionar mayor información sobre las posibles motivaciones de los criminales o del contexto en el que se cometieron. A pesar de la dificultad que esto entraña por la información escueta que proporcionan la mayoría de las notas informativas, pensamos que era importante identificar algunas de estas características diferenciales, ya que representan una fuente valiosa de información. De esta manera, localizamos 39 notas informativas que mencionan alguna otra característica diferencial de la víctima. De los resultados obtenidos destaca la cifra de 24 personas LGBT identificadas en las notas de prensa como defensoras de derechos humanos que fueron asesinadas en la administración pasada. Así mismo, 9 eran personas con VIH/SIDA; 5 eran migrantes.

De las personas reportadas como defensoras de los derechos LGBT, 13 fueron identificadas como mujeres trans; 9 como hombres gay/homosexuales; y 2 mujeres lesbianas. Destaca el número de defensor(as) de derechos humanos LGBT que fueron asesinados tan solo en el último año: 8. Algunas de las notas hacen referencia a la posibilidad de que el activismo de las víctimas defensoras de derechos humanos haya tenido relación con la motivación del o los homicidas.

Otro tanto sucede con los casos en los que se menciona el estado serológico positivo al VIH de las víctimas, 8 de ellas fueron percibidas como hombres gay/homosexuales y uno como bisexual. Algunas de las notas de prensa establecen una relación directa entre la seropositividad al VIH de las víctimas y la motivación de los homicidas. Esta relación está basada en la información proporcionada por los presuntos responsables detenidos o por las evidencias dejadas en el lugar de los hechos (estudios clínicos con el resultado positivo de la prueba del VIH).

Por otra parte, las nacionalidades de las víctimas identificadas como migrantes eran de los países centroamericanos de Guatemala, de Honduras y de El Salvador. Todas ellas eran mujeres trans. 3 de las víctimas se dedicaban al trabajo sexual.

Tabla 8. Características diferenciales de las víctimas

<table>
<thead>
<tr>
<th>Característica</th>
<th>Cifra</th>
</tr>
</thead>
<tbody>
<tr>
<td>Persona con VIH/SIDA</td>
<td>9</td>
</tr>
<tr>
<td>Discapacidad</td>
<td>1</td>
</tr>
<tr>
<td>persona en situación de calle</td>
<td>2</td>
</tr>
<tr>
<td>Migrante</td>
<td>4</td>
</tr>
<tr>
<td>Defensor(a) DDHH*</td>
<td>24</td>
</tr>
<tr>
<td>Usuario(a) drogas</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>41</td>
</tr>
<tr>
<td>Sin dato</td>
<td>432</td>
</tr>
<tr>
<td>Total</td>
<td>473</td>
</tr>
</tbody>
</table>

*Esta categoría la estamos considerando en un sentido amplio: activistas de los derechos LGBTI, líderes comunitarios(as), organizadores(as) de concursos de belleza, promotores(as) de eventos.

---

2. El contexto de los crímenes

a) El lugar de los hechos

Distribuidos por entidades del país, Veracruz encabeza la lista con al menos 43 asesinatos; seguido de Guerrero con 39; Quintana Roo con 33; Estado de México con 30; Chihuahua con 28; Puebla con 27; y Tamaulipas con 25. (Véase Tabla 9). Esos siete estados concentran casi la mitad, 47.5%, del total de los homicidios LGBT perpetrados a nivel nacional en todo el sexenio anterior.

De manera más puntual se registró el lugar en el que se encontró el cuerpo de la víctima, que podría ser el mismo lugar donde fue ultimada o el sitio donde fue arrojado su cuerpo. De acuerdo con los datos aportados por la base de datos, de los lugares reportados destacan los siguientes: 144 víctimas fueron asesinadas en sus propios domicilios, lo que representa la tercera parte del total de casos (31%); los cuerpos de 145 víctimas fueron encontrados en vía pública, lo que representa también casi la tercera parte de los casos (31.3%); cifra que se complementa con los cuerpos encontrados en terrenos baldíos: 42; en el campo: 18; y en canal o río: 14. Otros sitios que destacan son los hoteles/moteles y el lugar de trabajo con 25 víctimas en cada categoría.

Tabla 10. Lugar donde se encontró el cuerpo de víctimas

<table>
<thead>
<tr>
<th>Lugar</th>
<th>Frecuencia</th>
<th>Porcentaje</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terreno baldío</td>
<td>42</td>
<td>9.1%</td>
</tr>
<tr>
<td>Campo</td>
<td>18</td>
<td>3.9%</td>
</tr>
<tr>
<td>Canal/Río</td>
<td>14</td>
<td>3.0%</td>
</tr>
<tr>
<td>Domicilio de la víctima</td>
<td>144</td>
<td>31.1%</td>
</tr>
<tr>
<td>Hotel/Motel</td>
<td>25</td>
<td>5.4%</td>
</tr>
<tr>
<td>Lugar de trabajo</td>
<td>25</td>
<td>5.4%</td>
</tr>
<tr>
<td>Vehículo</td>
<td>13</td>
<td>2.8%</td>
</tr>
<tr>
<td>Vía pública</td>
<td>145</td>
<td>31.3%</td>
</tr>
<tr>
<td>Lugar LGBT*</td>
<td>4</td>
<td>.9%</td>
</tr>
<tr>
<td>Vivienda particular**</td>
<td>13</td>
<td>2.8%</td>
</tr>
<tr>
<td>Bar</td>
<td>4</td>
<td>.9%</td>
</tr>
<tr>
<td>Otro***</td>
<td>16</td>
<td>3.4%</td>
</tr>
<tr>
<td>Total</td>
<td>463</td>
<td>100%</td>
</tr>
<tr>
<td>Sin dato</td>
<td>10</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>473</td>
<td>-</td>
</tr>
</tbody>
</table>

*En esta categoría se consideró a los espacios de esparcimiento LGBT como discotecas, bares y cantinas.
**Diferente al domicilio de la víctima.
***En esta categoría se incluyen lugares como zanjas a un lado de carreteras, panteones y fosa clandestina.

Violencia Extrema

Al cruzar estas cifras con la orientación sexual/identidad de género percibida de la víctima, se halló que en la categoría de mujeres trans, la mayoría de ellas, 158, fueron asesinadas o sus cuerpos fueron arrojados a la vía pública u otros espacios abiertos como terrenos baldíos, en los campos o en canales y ríos. También resalta el alto número de ellas que fueron asesinadas en sus domicilios: 50.

En contraste, y de manera inversa, un gran número, 92, de hombres gay/homosexuales fueron asesinados en sus propios domicilios, lo que claramente representa casi la mitad de estos casos. Así mismo, dentro de esta misma categoría, destaca el número de hombres gays/homosexuales, cuyos cuerpos fueron encontrados en la vía pública u otros espacios abiertos como terrenos baldíos, en los campos y en canales o ríos: 51.

Tabla 11. Relación lugar donde se encontró el cuerpo y orientación sexual/identidad de género de las víctimas

<table>
<thead>
<tr>
<th>Lugar de la víctima</th>
<th>Gay/Hombre homosexual</th>
<th>Lesbiana/Mujer homosexual</th>
<th>Hombre Bisexual</th>
<th>Mujer Bisexual</th>
<th>Mujer trans</th>
<th>Otro</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Terreno baldío</td>
<td>11</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>28</td>
<td>2</td>
<td>42</td>
</tr>
<tr>
<td>Campo</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>17</td>
<td>0</td>
<td>18</td>
</tr>
<tr>
<td>Canal/Río</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>9</td>
<td>2</td>
<td>14</td>
</tr>
<tr>
<td>Domicilio de la víctima</td>
<td>92</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>50</td>
<td>1</td>
<td>144</td>
</tr>
<tr>
<td>Hotel/Motel</td>
<td>16</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>9</td>
<td>0</td>
<td>25</td>
</tr>
<tr>
<td>Lugar de trabajo</td>
<td>10</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>14</td>
<td>0</td>
<td>25</td>
</tr>
<tr>
<td>Vehículo</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>7</td>
<td>0</td>
<td>13</td>
</tr>
<tr>
<td>Vía pública</td>
<td>36</td>
<td>4</td>
<td>1</td>
<td>1</td>
<td>103</td>
<td>0</td>
<td>145</td>
</tr>
<tr>
<td>Lugar LGBT</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>4</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Vivienda particular</td>
<td>7</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>5</td>
<td>0</td>
<td>13</td>
</tr>
<tr>
<td>Bar</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Otro</td>
<td>4</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>9</td>
<td>0</td>
<td>16</td>
</tr>
<tr>
<td>Total</td>
<td>186</td>
<td>9</td>
<td>5</td>
<td>1</td>
<td>257</td>
<td>5</td>
<td>463</td>
</tr>
</tbody>
</table>

Tabla 12. Antecedentes de violencia y discriminación sufridas por las víctimas

| Agresión física | 3 |
| Amenasas verbales | 8 |
| Hostigamiento o acoso | 5 |
| Actos de discriminación | 1 |
| Extorsión | 3 |
| Otro* | 12 |
| Total | 32 |
| Sin dato | 440 |
| Total | 473 |

*bAsalto, “viejas rencillas”, homicidio de compañera de vivienda y testigos de homicidios.
3. Violencia ejercida

Para describir las circunstancias de modo en que fueron asesinadas las víctimas LGBT, se tomaron en cuenta los siguientes elementos: el arma que los perpetradores utilizaron para provocar la muerte de sus víctimas; el estado en el que se encontró el cuerpo; y si hubo indicios de violencia sexual y/o de ensañamiento.

En cuanto al arma utilizada por los homicidas, el monitoreo revela que un buen número de las víctimas, 142, fueron ultimadas con arma blanca o filosa (cuchillos, navajas, machetes, etc.), lo que representa un tercio de los casos (33%) que incluyen esa información; 139 fueron ejecutadas con arma de fuego, casi un tercio también (32.3%); 50 fallecieron por asfixia o estrangulamiento provocado por un objeto constrictor (lazos, cables, cinturones, etcétera); 49 fueron golpeadas con un objeto contundente (piedras, tubos, palos, bates de béisbol y otros objetos similares); 38 debido a la fuerza física ejercida por los homicidas (golpes y patadas); y 7 fueron atropelladas o rematadas por un vehículo luego de ser mortalmente heridas. En 43 casos no se encontró información sobre el arma utilizada. (Véase tabla 13)

En cuanto al arma utilizada por los homicidas, el monitoreo revela que un buen número de las víctimas, 142, fueron ultimadas con arma blanca o filosa

<table>
<thead>
<tr>
<th>Arma que provocó la muerte de la víctima (2013-2018)</th>
<th>Frecuencia</th>
<th>Porcentaje</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arma blanca o filosa</td>
<td>142</td>
<td>33.02%</td>
</tr>
<tr>
<td>Arma de fuego</td>
<td>139</td>
<td>32.32%</td>
</tr>
<tr>
<td>Objeto contundente</td>
<td>49</td>
<td>11.39%</td>
</tr>
<tr>
<td>Objeto constrictor</td>
<td>50</td>
<td>11.62%</td>
</tr>
<tr>
<td>Vehículo</td>
<td>7</td>
<td>1.62%</td>
</tr>
<tr>
<td>Fuerza física</td>
<td>38</td>
<td>8.8%</td>
</tr>
<tr>
<td>Otro*</td>
<td>5</td>
<td>1.16%</td>
</tr>
<tr>
<td>Total</td>
<td>430</td>
<td>100%</td>
</tr>
<tr>
<td>Sin dato</td>
<td>43</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>473</td>
<td></td>
</tr>
</tbody>
</table>

* Veneno, combustible inflamable y otros objetos

Al cruzar esta información con la orientación sexual y la identidad de género percibida de las víctimas, se halló que las víctimas identificadas como mujeres trans fueron, en mayor medida, ejecutadas con arma de fuego: 105 de un total de 237, lo que representa 44% de esos casos en ese grupo de víctimas; seguidas de las armas filosas o punzocortantes: usadas en 58 de los casos, es decir, casi una cuarta parte del total de esos casos.

En contraste, las armas filosas o punzocortantes fueron las más usadas en los asesinatos de los hombres gay/homosexuales: en 79 de un total de 174 casos de este grupo identitario, lo que representaría 45%; seguidas de los objetos constrictores usados en 30 de los homicidios de ese grupo identitario, y de arma de fuego en 28 de esos casos.

En los casos identificados o percibidos como lesbianas, mujeres bisexuales y hombres bisexuales los pocos datos con los que se cuenta no son numéricamente significativos, por lo que no se puede extraer ningún resultado relevante.


<table>
<thead>
<tr>
<th></th>
<th>Gay/Hombre homosexual</th>
<th>Lesbian/hombre homosexual</th>
<th>Hombre Bisexual</th>
<th>Mujer Bisexual</th>
<th>Mujer trans</th>
<th>Otro</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arma blanca o filosa</td>
<td>79</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>58</td>
<td>2</td>
<td>142</td>
</tr>
<tr>
<td>Arma de fuego</td>
<td>28</td>
<td>6</td>
<td>0</td>
<td>0</td>
<td>105</td>
<td>0</td>
<td>139</td>
</tr>
<tr>
<td>Objeto contundente</td>
<td>19</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>25</td>
<td>2</td>
<td>49</td>
</tr>
<tr>
<td>Objeto constrictor</td>
<td>30</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>19</td>
<td>0</td>
<td>49</td>
</tr>
<tr>
<td>Vehículo</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>6</td>
<td>0</td>
<td>7</td>
</tr>
<tr>
<td>Fuerza física</td>
<td>15</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>22</td>
<td>0</td>
<td>38</td>
</tr>
<tr>
<td>Otro</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>174</td>
<td>9</td>
<td>5</td>
<td>1</td>
<td>237</td>
<td>4</td>
<td>430</td>
</tr>
</tbody>
</table>

Además del arma utilizada en la comisión de los homicidios, es necesario conocer el estado en que se encontró el cuerpo para obtener alguna información indicadora del grado de violencia ejercida sobre la víctima, la manera como la posible motivación de los homicidas se materializó en los cuerpos de sus víctimas.

De la tabla siguiente se puede observar que un número importante de víctimas fueron objeto de excesiva violencia antes o, incluso, después de ser asesinadas. Así tenemos que al menos 108 cuerpos aparecieron con múltiples heridas (que en algunos casos presentaban más de 30 puñaladas) provocadas con objetos punzocortantes que dañan cuenta del ensañamiento de los homicidas; 78 sufrieron múltiples golpes antes de, finalmente, morir producto de esos mismos golpes o ser rematados con la utilización de alguna otra arma de las descritas en la tabla 13. Por otro lado, al menos 13 de las víctimas fueron maniatadas antes de ser ultimadas. El ensañamiento con las víctimas también se revela en los 5 cuerpos que fueron descuartizados, los 12 que fueron calcinados y los cuerpos que fueron rematados pasándoles un auto encima. (Véase tabla 15)

Tabla 15. Estado en que fue encontrado el cuerpo (2013-2018)

<p>| | | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Descuartizado</td>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Calcinado</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Golpeado</td>
<td>78</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Atado</td>
<td>12*</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>En descomposición</td>
<td>17</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Apuñalado</td>
<td>108</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Atropellado</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asfixiados/Estrangulados</td>
<td>53</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Baleado</td>
<td>136</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Otro*</td>
<td>26</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>453</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sin Dato</td>
<td>20</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* El número de cuerpos hallados maniatados y embozados es mayor a esta cifra, pero por razones del procedimiento de registro no fue posible registrarlo a todos.
**Envenenado, enterrado, estrangulado, colgado después de muerto, descabezado.

Los resultados de la tabla anterior nos proporcionan un indicador de las múltiples violencias a las que fueron sometidas muchas de las víctimas antes de ser asesinadas o el ensañamiento al que fueron sometidos sus cuerpos ya sin vida.
a) Violencia sexual y “Tortura”

La violencia sexual y la saña perpetradas en los asesinatos de personas LGBT son indicios inequívocos de la intención de infringir daños físicos, dolor y sufrimiento excesivos a sus víctimas antes o después de ser ultimadas, que podrían estar, a su vez, motivados por los prejuicios y/o el odio de los perpetradores hacia la orientación sexual o la identidad de género de las víctimas.

Además de las múltiples violencias, ya mencionadas, a las que fueron sometidas las víctimas antes de ser ultimadas, algunas de las notas de prensa hacen referencia a la violencia sexual y a la existencia de “tortura” o “indicios de tortura” en la descripción de los cuerpos para hacer referencia al ensañamiento o los niveles excesivos de violencia utilizados por los victimarios con el propósito de infringir sufrimiento y dolor de manera intencionada a sus víctimas.

De esta manera tenemos que al menos en 22 casos, las víctimas habrían sufrido violencia sexual antes o después de ser ultimadas. Así mismo, en al menos 60 casos las notas de prensa hacen referencia a lo que las y los periodistas identifican como “tortura”, “indicios de tortura” o “marcas de tortura” en los cuerpos de las víctimas.

De acuerdo a la Convención Interamericana para Prevenir y Sancionar la Tortura el término “tortura” solo puede ser aplicado como delito cuando lo comenten agentes del Estado, empleados o funcionarios públicos y las personas instigadas por funcionarios públicos. Art. 3. Es por esa razón que decidimos entrecomillarlo.

El ensañamiento se entiende jurídicamente como una circunstancia agravante de la responsabilidad criminal, que consiste en aumentar inhumanamente y de forma deliberada el sufrimiento de la víctima, causándole padecimientos innecesarios para la comisión del delito. Diccionario/Enciclopedia Jurídica On Line: http://diccionario.leyderecho.org/ensanamiento/

Es necesario apuntar que estos dos tipos de violencia no son excluyentes, pueden presentarse combinados. Algunos de los cuerpos de las víctimas, de acuerdo con lo narrado por las y los periodistas, presentaban ambos tipos de violencia.

Así mismo, al menos una de las víctimas percibida como lesbiana fue violada antes de ser asesinada, según la narración de las notas de prensa, y 2 presentaban indicios de “tortura”, lo mismo que una de las víctimas percibida como mujer bisexual.

---

Tabla 16. Evidencias de violencia sexual y de “tortura”:

<table>
<thead>
<tr>
<th></th>
<th>Frecuencia</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violencia Sexual</td>
<td>22</td>
</tr>
<tr>
<td>Indicios de “tortura”</td>
<td>60</td>
</tr>
</tbody>
</table>

Tabla 17. Relación identidad de género y/u orientación sexual con evidencias de violencia sexual y “tortura”:

<table>
<thead>
<tr>
<th></th>
<th>“Tortura”</th>
<th>Violencia Sexual</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gay/Hombre homosexual</td>
<td>23</td>
<td>12</td>
</tr>
<tr>
<td>Lesbian/Mujer homosexual</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Mujer trans</td>
<td>32</td>
<td>7</td>
</tr>
<tr>
<td>Mujer Bisexual</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Otro*</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>60</td>
<td>22</td>
</tr>
</tbody>
</table>

*Se refiere a los casos descritos en Tabla 2.
4. Líneas de investigación y presuntos homicidas

En su narrativa, las notas de prensa que dan cobertura a los asesinatos de personas LGBT suelen incluir de rutina la información sobre las posibles líneas de investigación a seguir por los agentes de la policía ministerial, basadas en la información proporcionada, de manera formal o informal, por las propias autoridades. La importancia de esta información está en que revela la tendencia en el actuar de las autoridades responsables de las investigaciones.

Lo primero que destaca de los datos arrojados por la tabla 18, es la poca relevancia que la orientación sexual y la identidad de género de las víctimas tiene en la investigación realizada por parte de las fiscalías y los agentes judiciales, a pesar de los indicios y los elementos presentes en la escena del crimen, que llevarían a no descartar de entrada la motivación del odio o del prejuicio hacia las víctimas. De las 166 notas de prensa que hacen mención de las líneas de investigación seguidas por las autoridades ministeriales, sólo el 10.5% menciona al crimen de odio como la principal o probable línea de investigación.

En contraste, se sigue mencionando a la figura de “crimen pasional”12 como línea de investigación principal en un porcentaje considerable del número de casos: 26.5%. Por otro lado, en casi 34% del total contemplado, se menciona al robo o al asalto como el principal móvil, y por lo tanto como línea de investigación a seguir de los homicidios; y al 8% de los casos contemplados se les califica como homicidios simples. Por otro lado, en el contexto de violencia criminal generalizada en la que vive México, resalta el porcentaje de casos que se relacionan al crimen organizado como principal línea de investigación: 13% de todos los casos contemplados en este apartado.

<table>
<thead>
<tr>
<th>Línea de investigación</th>
<th>Frecuencia</th>
<th>Porcentaje válido</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crimen de odio</td>
<td>19</td>
<td>10.5%</td>
</tr>
<tr>
<td>Crimen pasional</td>
<td>48</td>
<td>26.5%</td>
</tr>
<tr>
<td>Crimen organizado</td>
<td>24</td>
<td>13.25%</td>
</tr>
<tr>
<td>Asalto o robo</td>
<td>62</td>
<td>34.25%</td>
</tr>
<tr>
<td>Homicidio simple</td>
<td>15</td>
<td>8.3%</td>
</tr>
<tr>
<td>Otro*</td>
<td>13</td>
<td>7.2%</td>
</tr>
<tr>
<td>Total</td>
<td>181</td>
<td>100%</td>
</tr>
<tr>
<td>S/D</td>
<td>292</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>473</td>
<td></td>
</tr>
</tbody>
</table>

*Riña por accidente automovilístico, riñas por viejas rencillas, venganza.

12 A pesar de que en la legislación mexicana no existe el término “crimen pasional” como figura jurídica, este invento del siglo XIX –cargado de prejuicios de género, usado para menguar penas en casos de...

### Tabla 19. ¿Se identificó a presuntos responsables?

<table>
<thead>
<tr>
<th></th>
<th>Frecuencia</th>
<th>Porcentaje válido</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sí</td>
<td>136</td>
<td>28.8%</td>
</tr>
<tr>
<td>No</td>
<td>337</td>
<td>71.2%</td>
</tr>
<tr>
<td>Total</td>
<td>473</td>
<td>100%</td>
</tr>
</tbody>
</table>

Por grupo de edad al que pertenecen los presuntos homicidas sobresale que la mayoría de ellos son jóvenes de entre 18 y 29 años con 59 casos (68%, del total), que sumados a los homicidas menores de edad, con 9 casos (10.5%), significa que casi el 80% de los presuntos homicidas identificados fueron jóvenes menores de 30 años. La edad promedio de los victimarios fue de 24 años.

Contrastada la cifra anterior con la edad promedio de las víctimas tenemos que por lo regular los presuntos homicidas son de un rango de edad menor al de sus víctimas, que es de 34 años.

### Tabla 20. Grupos de edad de los presuntos homicidas (2013-2018)

<table>
<thead>
<tr>
<th></th>
<th>Frecuencia</th>
<th>Porcentaje</th>
</tr>
</thead>
<tbody>
<tr>
<td>Menores de edad (0 a 17 años)</td>
<td>9</td>
<td>10.5%</td>
</tr>
<tr>
<td>Jóvenes (18 a 29 años)</td>
<td>59</td>
<td>68.6%</td>
</tr>
<tr>
<td>Adultos (30 a 59 años)</td>
<td>18</td>
<td>20.9%</td>
</tr>
<tr>
<td>Total</td>
<td>86</td>
<td>100%</td>
</tr>
<tr>
<td>Sin dato</td>
<td>50</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>136</td>
<td>-</td>
</tr>
</tbody>
</table>

Por otro lado, también se consideró necesario extraer la información sobre la relación que mantenían los presuntos homicidas con sus víctimas. Al respecto, el monitoreo arrojó que 38 de los presuntos homicidas identificados fueron señalados como la pareja con la que sostenían alguna relación sexual o afectiva; 29 eran conocidos de la víctima; 13 fueron hombres que establecieron un acuerdo previo de sexo por un pago con la víctima; 7 de los victimarios conocieron a sus víctimas en lugares de encuentro (antros, bares, cantinas, etc.) o por medio de aplicaciones de ligue; 3 eran sujetos con los que guardaban alguna relación laboral (compañeros de trabajo); 3 eran familiares de la víctima; 2 pertenecían al crimen organizado; y 12 no tenían ninguna relación previa con la víctima.

### Tabla 21. Tipo de relación sostenida por los presuntos responsables con las víctimas (2013-2018)

<table>
<thead>
<tr>
<th></th>
<th>Frecuencia</th>
<th>Porcentaje</th>
</tr>
</thead>
<tbody>
<tr>
<td>Familiar</td>
<td>3</td>
<td>2.7%</td>
</tr>
<tr>
<td>Conocido</td>
<td>29</td>
<td>26.4%</td>
</tr>
<tr>
<td>Pareja o persona con la que sostenía alguna relación sexual/afectiva</td>
<td>38</td>
<td>34.6%</td>
</tr>
<tr>
<td>Relación por comercio sexual</td>
<td>13</td>
<td>11.8%</td>
</tr>
<tr>
<td>Relación laboral</td>
<td>3</td>
<td>2.7%</td>
</tr>
<tr>
<td>Persona conocida por aplicación de ligue o redes sociales</td>
<td>2</td>
<td>1.8%</td>
</tr>
<tr>
<td>Persona conocida en un lugar de encuentro gay</td>
<td>5</td>
<td>4.5%</td>
</tr>
<tr>
<td>Ninguna relación</td>
<td>12</td>
<td>11.0%</td>
</tr>
<tr>
<td>Crimen organizado</td>
<td>2</td>
<td>1.8%</td>
</tr>
<tr>
<td>Otro</td>
<td>3</td>
<td>2.7%</td>
</tr>
<tr>
<td>Total</td>
<td>110</td>
<td>100%</td>
</tr>
<tr>
<td>Sin dato</td>
<td>26</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>136</td>
<td>-</td>
</tr>
</tbody>
</table>
Acerca del estado en el que se encontraba la situación jurídica de los presuntos responsables al momento de la elaboración de las notas periodísticas, el monitoreo reveló que 10 contaban con órdenes de aprehensión pero todavía no habían sido detenidos; 36 se encontraban en calidad de detenidos como presuntos responsables; 34 fueron vinculados a proceso; 20 fueron remitidos a una prisión preventiva en lo que se investigaba su situación; 14 recibieron una sentencia condenatoria; 6 fueron puestos en libertad; y dos murieron antes de ser capturados por la policía.

<table>
<thead>
<tr>
<th>Estado</th>
<th>Frecuencia</th>
<th>Porcentaje</th>
</tr>
</thead>
<tbody>
<tr>
<td>Orden de aprehensión</td>
<td>10</td>
<td>7.8%</td>
</tr>
<tr>
<td>Detenido</td>
<td>36</td>
<td>28%</td>
</tr>
<tr>
<td>Vinculación a proceso</td>
<td>34</td>
<td>26%</td>
</tr>
<tr>
<td>Prisión preventiva</td>
<td>20</td>
<td>15.5%</td>
</tr>
<tr>
<td>Sentencia condenatoria</td>
<td>14</td>
<td>11%</td>
</tr>
<tr>
<td>Puesto en libertad</td>
<td>6</td>
<td>4.7%</td>
</tr>
<tr>
<td>Muerto</td>
<td>2</td>
<td>1.5%</td>
</tr>
<tr>
<td>Prófugo</td>
<td>7</td>
<td>5.5%</td>
</tr>
<tr>
<td>Total</td>
<td>126</td>
<td>100%</td>
</tr>
<tr>
<td>S/D</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>136</strong></td>
<td></td>
</tr>
</tbody>
</table>

De los 6 presuntos homicidas liberados, 5 se debieron a fallas y deficiencias de las fiscalías o ministerios públicos en la integración de las carpetas de investigación, como la falta de peritajes en criminalística, el incumplimiento de los protocolos al momento de la detención de sospechosos, fallas en el resguardo de las evidencias y en la cadena de custodia, etcétera. Por lo que las y los jueces determinaron que no existían los elementos probatorios suficientes y determinantes para fincar la responsabilidad en la comisión de los homicidios a los imputados, a pesar de que algunos de ellos habían confesado su participación en los delitos o habían sido detenido en flagrancia.\(^{13}\)

Las notas de prensa monitoreadas también reportan la existencia de multihomicidas o asesinos seriales de homosexuales, como los califican los propios medios, cuyo rasgo característico es que por lo regular actúan solos y siguen el mismo modus operandi en todos los homicidios que cometen. Las víctimas, por lo regular, son hombres homosexuales que viven solos y son ultimados dentro de sus domicilios. En el monitoreo se identificaron por lo menos 5 casos de presuntos multihomicidas que en conjunto habrían asesinado a 18 hombres homosexuales. La ubicación y el número de víctimas fue el siguiente: Monterrey, con por lo menos 3 víctimas identificadas, Chihuahua, con por lo menos 5\(^{14}\), Cuautla con 4\(^{15}\), Matamoros con 2, y Loreto con 4. De entre los multihomicidas se identificaron a dos menores de 18 años.

Desafortunadamente, son muy pocos los casos de homicidio a los que se les da seguimiento periodístico en los medios. Lo dilatado de los procesos judiciales dificulta la labor de seguimiento periodístico. Por ese motivo, no es posible asumir la culpabilidad de todos los presuntos responsables, acusados de la comisión de los delitos de homicidio. Los datos aquí aportados al respecto son solo una fotografía fija del momento en que fueron dados a conocer por la prensa.

\(^{13}\)El caso más escandaloso fue el del presunto homicida de Paola, mujer trans y trabajadora sexual de 25 años, que fue detenido en flagrancia y liberado días después por “insuficiencia probatoria”. Eliana Gilet, Vice, diciembre 17 de 2016: www.vice.com/es_mx/article/bn4w7v/la-historia-completa-de-paola-transexual-asesinada-impune-prostituta

\(^{14}\)Estas cinco víctimas fueron plenamente identificadas, pero la policía asegura que el multihomicida podría estar relacionado con otros 12 homicidios cometidos en circunstancias similares.

\(^{15}\)Este es el único caso en el que actuaron por lo menos dos homicidas en complicidad. La Fiscalía General del Estado de Morelos manejó incluso que se trataba de una banda dedicada al asesinato de hombres homosexuales a quienes terminaban por robarles sus pertenencias.
Existe la posibilidad de que a algunos de los detenidos se les haya imputado el crimen sin las pruebas suficientes que lo acreditaran (la invención de culpables es una práctica muy arraigada en el sistema judicial mexicano) o, peor, inducidos por los prejuicios de los propios fiscales, agentes de investigación y de las y los jueces hayan sido sentenciados siendo inocentes, o que incluso hayan sido torturados con el propósito de arrancarles la declaración de culpabilidad.

b) El argumento de la “legítima defensa” de los victimarios

Por otro lado, en las transcripciones de prensa de las declaraciones de algunos de los imputados de los homicidios en contra de hombres gay/homosexuales llama la atención, por lo reiterativo, el argumento esgrimido por algunos de los homicidas confesos para justificar su delito. En sus versiones de los hechos, estos homicidas confesos alegan haber actuado en legítima defensa o en defensa propia, siempre en reacción a un supuesto acoso sexual o a insinuaciones sexuales por parte de la víctima, y en algunos casos bajo el influjo del alcohol y de alguna droga. Lo que resalta en estos casos es la sobre reacción, la respuesta de violencia extrema que no guarda proporcionalidad con las supuestas ofensas de la que fueron objeto los victimarios. Así mismo, llama la atención que en algunos de estos casos los homicidas “aprovecharan” la oportunidad para robar las pertenencias de valor de las víctimas que supuestamente los ofendieron.

El intercambio indeseado de roles sexuales activo-pasivo sería otro de los motivos esgrimidos por algunos de los presuntos responsables que, de acuerdo con sus declaraciones, habría suscitado su reacción tan violenta, al grado de privar de la vida a los hombres con quienes mantenían o habían acordado tener relaciones sexuales, con pago de por medio en algunos de los casos. De acuerdo con sus dichos, transcritos en las notas de prensa, lo que motivó la reacción violenta de los victimarios fueron las pretensiones de las víctimas de intercambiar los roles sexuales, de tal manera que los colocaría a ellos, supuestos sujetos activos, en el rol sexual pasivo.

El argumento de la “legítima defensa” o la reacción en defensa propia ha sido utilizado por algunos abogados defensores en su propósito de lograr la atenuación de la responsabilidad de sus defendidos, homicidas confesos. Su estrategia la enfocan en demostrar, ante jueces y magistrados, que los imputados cometieron los homicidios en un “estado de emoción violenta” al sentirse ofendidos o agraviados gravemente en su honor masculino. La polémica figura jurídica de la comisión de homicidios en “estados de emoción violenta” es reconocida aún en los códigos penales de varios estados del país.

Estos argumentos justificantes del actuar violento de los homicidas también suelen esgrimirse en los casos de asesinatos de mujeres trans (transfeminicidios), donde los homicidas confesos justifican la agresión violenta por el supuesto “engaño” del que habrían sido objeto por parte de la víctima al percatarse de que en realidad era hombre la mujer con la que había acordado tener relaciones sexuales.

16 El caso de Óscar Ramírez Siordia, joven gay que, en un juicio cargado de prejuicios, fue sentenciado injustamente por el asesinato de su pareja. Al respecto, ver la Recomendación 01/2019, CDHDF: https://cdhdf.org.mx/2019/04/recomendacion-01-2019/
17 Ezequiel Flores Contreras, Proceso, marzo 11 de 2013: https://www.proceso.com.mx/335992/acusan-torta-contra-presunto-homicida-de-auditor-de-guerrero
18 El homoerotismo (el deseo erótico y las prácticas sexuales entre varones), lo experimentan también -muchas veces de maneras conflictivas, contradictorias, no resueltas-, hombres que no se identifican como homosexuales, como gays o como bisexuales. De acuerdo con el antropólogo social Guillermo Núñez Noriega, “las prácticas homoeróticas pueden ser incorporadas en la identidad masculina de muchos varones”. En ese sentido, no podemos asumir que todos los sujetos que participan en una experiencia sexual homoerótica no asumida plenamente, sean en realidad “homosexuales reprimidos”. No se puede simplificar una situación tan compleja. Sobre el tema, se puede consultar el libro de Núñez Noriega, Masculinidad e intimidad: identidad, sexualidad y sida, PUEG-UNAM/ El Colegio de Sonora-Porrúa. México, 2008.
Los mismos agentes de la policía suelen compartir los alegatos esgrimidos por los homicidas, supuestamente “engañados” por sus víctimas trans, en la justificación de sus actos violentos: “‘Estamos casi seguros de que este sujeto (sic) fue sacado de algún burdel o de algún antro de vicio por alcohíizados sujetos que al pensar que se trataba de una mujer se lo llevaron para continuar con la fiesta y que al darse cuenta que se llevaron gato por liebre (sic), enfurecidos lo golpearon y mataron’, dijeron algunos de los elementos de la Policía Municipal que arribaron al lugar, luego del reporte de los vecinos.”

La víctima era una mujer trans de aproximadamente 30 años golpeada reiteradamente y asesinada por múltiples heridas provocadas por un arma punzocortante, una de las cuales la degolló. Su cuerpo sin vida fue envuelto en un cobertor y arrojado desde un auto en marcha en la calle o arroyo vehicular conocido como La Mariquita en Ciudad Nezahualcóyotl, Estado de México.

José Luis Tellezgrón, Imprevistos noticias, enero 26 de 2014: http://imprevistosnoticias.blogspot.mx/2014/01/asesinan-travesti-en-neza.html
1. Los datos presentados en este informe alertan sobre una posible tendencia preocupante en el crecimiento del número de homicidios, feminicidios y transfeminicidios cometidos en contra de personas LGBT. Así lo revelan las cifras de los dos últimos años del sexenio del gobierno de Enrique Peña Nieto que registran un aumento de 30% en comparación con el promedio registrado en los cuatro años anteriores.

2. A pesar de las diferentes circunstancias de tiempo, modo y lugar en las que se cometieron los homicidios de personas LGBT, podemos afirmar que existe un componente de prejuicio común a muchos de los casos, de tal manera que no los podemos considerar hechos de violencia aislados, sino que deben ser situados en un contexto social en el que prevalecen y persisten muy arraigados aún estereotipos negativos hacia las personas LGBT, y en general hacia las personas que trasgreden las normas, las expresiones y los roles binarios (masculino/femenino) de género, que las perciben como personas anormales y trastornadas.

3. La violencia homicida motivada por el prejuicio contra personas LBGT debe entenderse como una forma de violencia de género, ya que el propósito de los agresores es el de castigar a las personas cuya apariencia y comportamiento no se corresponde con los estereotipos binarios de género masculino/femenino sino que, por el contrario, los desafía.23

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23 Violencia contra personas LGBTI en América. CIDH, 2015. p. 38
4. Los patrones de violencia se dan en función de la identidad sexual y de género de las víctimas. Mientras que la mayoría de los cuerpos de los hombres gay/homosexuales fueron encontrados en sus domicilios con múltiples heridas provocadas por objetos punzocortantes o asfixiados, los cuerpos de las mujeres trans fueron encontrados en la vía pública o en lotes baldíos o en ríos y presas con heridas provocadas por armas de fuego, en primer lugar, y por heridas provocadas por objetos punzocortantes, en segundo lugar. Los ataques dirigidos a mujeres lesbianas son más proclives al parecer cuando se encuentran en pareja, ya sea por conocidos o desconocidos de las víctimas.

5. Dentro de las poblaciones de la diversidad sexual, las mujeres trans (travestis, transexuales y transgénero) son las más vulnerables a ser violentadas. El contexto social predominante de discriminación y de rechazo que las rodea las expone al riesgo de sufrir todo tipo de agresiones, incluido el asesinato. El mayor riesgo de ser asesinadas estaría relacionado al círculo de violencia, exclusión y criminalización en el que se encuentran inmersas. La ausencia de legislación, en la mayoría de los estados del país, que permita el cambio de identidad de género exacerba las condiciones de marginación de esta población, negándoles oportunidades de desarrollo. En particular, las mujeres trans dedicadas al estilismo y/o al trabajado sexual son las más expuestas a la violencia homicida, imposibilitadas de pasar desapercibidas, su mayor visibilidad pública las sitúa en la mira de los ataques de odio por parte de individuos, pandillas, y hasta por sus propios clientes. Y en el clima de violencia generalizada que vive México, las trabajadoras sexuales trans están mayormente expuestas a ser víctimas del crimen organizado.

6. Los hombres gay/homosexuales suelen ser víctimas de lo que se denomina crímenes o delitos “de levante”, en los que el modus operandi sigue un mismo patrón: los victimarios “ligan” o “levantan” a sus víctimas en lugares de encuentro gay como bares, cantinas, plazas, parques, entre otros, e incluso utilizan aplicaciones y chats de ligue gay por Internet; y haciendo uso de tácticas de seducción, fingen interés sexual en sus víctimas buscando ganar su confianza (en algunos casos con el propósito de obtener información sobre si vive solo, su nivel de ingresos o su ocupación), para lograr ingresar a sus domicilios sin necesidad de forzar entradas o hacerse invitar a hoteles o conducir a sus víctimas hacia parajes solitarios. Una vez dentro y/o a solas con su víctima, la someten y terminan asesinándola, ya sea que se trate de agresores motivados por su homofobia (social o interiorizada), multihomicidas o delincuentes comunes que eligen a homosexuales como “víctimas fáciles” para robarles. Se han identificado incluso bandas de delincuentes comunes dedicadas a robar a homosexuales y que terminan asesinándolos con particular saña.

Así mismo, los hombres gay/homosexuales, e incluso los hombres bisexuales, también son víctimas de la violencia machista: como castigo por expresarse afecto en público (vivido por los agresores como ofensa o desafío al estereotipo de “hombre” o de “hombría), o como reacción a supuestos coqueteos, insinuaciones y tocamientos eróticos con hombres presumentemente heterosexuales que reaccionarían de manera extrema en “defensa de su honor” machucino.

7. La invisibilidad social impuesta a las lesbianas impide la documentación de las víctimas de asesinatos cometidos en su contra, que podrían pasar por feminicidios en donde solo importaría el género y no la orientación sexual de la víctima. Debido a ese hecho, los únicos casos que adquieren visibilidad publica son aquellos perpetrados en contra de las parejas de lesbianas. Ellas también son “castigadas” por la violencia machista que no tolera la expresión amorosa en público de una pareja de mujeres. En el caso del asesinato de las mujeres lesbianas, y de las mujeres bisexuales también, el prejuicio homicida operaría por partida doble: debido a su condición de mujeres y debido a su orientación sexual en un contexto de desigualdad estructural de poder entre los géneros que mantiene a la mujer en una posición subordinada y de control de su sexualidad. Sin embargo, faltan registros para conocer en qué medida esa violencia se asocia a la combinación de prejuicios por género y por orientación sexual.

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8. Los asesinatos de mujeres bisexuales adquieren visibilidad pública cuando son, por lo regular, perpetrados por sus exparejas masculinas. Y al igual que las mujeres lesbianas, su orientación sexual se percibe solo cuando sale a flote su relación erótico/afectiva con su pareja del mismo sexo. Y el mismo contexto social de desigualdad estructural de poder entre los géneros aplica en los casos de violencia hacia las mujeres bisexuales.

9. Existe una mayor dificultad para registrar la violencia homicida cometida contra hombres bisexuales, ya que la violencia ejercida en contra de ellos suele darse porque son percibidos como gays u homosexuales. Y al igual que las mujeres bisexuales, su orientación sexual es percibida solo cuando su relación de pareja, en este caso con una persona de diferente sexo, viene a cuenta.

10. Al contrario de la mayor visibilidad pública que viven las mujeres trans, los hombres trans o personas trans con expresión masculina viven en la invisibilidad social, y es precisamente esa invisibilidad la que parece exponerlos menos a la violencia homicida. De acuerdo con la CIDH, el tipo de violencia que suelen experimentar los hombres trans es el que ocurre comúnmente en el ámbito privado o escolar.

11. En el caso de las personas intersexuales, no se registró ningún caso de homicidio perpetrado en función de las características sexuales (que difieren de los estándares de corporalidad masculina y femenina) de las víctimas. Y no porque resulte imposible que puedan ser blanco de la violencia homicida por prejuicio, sino porque en su caso la invisibilidad y el silencio que las rodea es total.

12. En cuanto a la función de las autoridades encargadas de investigar los delitos, procesar y sancionar a los presuntos responsables observamos que policías, agentes de ministerios públicos, fiscales y jueces suelen compartir en muchos casos los mismos prejuicios (hacia las identidades sexuales y de género diversas), que los homicidas. En primer lugar, suelen percibir a todas las víctimas como “homosexuales”; en esa categoría se comprime a toda la diversidad de manifestaciones de la sexualidad y la expresión de género que no se ajustan a la normatividad heterosexual. De esta manera, la categoría “homosexual” pasa a englobar y describir a todas las personas que fueron objeto de un homicidio donde se presume que la orientación sexual o la identidad de género de la víctima tuvo un rol sobresaliente en la motivación del homicida. Es muy común que se englobe en el término “homosexual”, sin distingos de ninguna especie, a las mujeres lesbianas, a las personas travestis, transexuales y transgénero, a los hombres gay y bisexuales, e incluso a los propios victimarios sin tener la certeza de su identidad sexual. Esta falta de diferenciación es el resultado de una percepción prejuiciada. El predominio de la percepción estereotipada del sujeto “homosexual” se impone por encima de cualquier diferencia sexual y de género que presenta la víctima, lo que se convierte en un obstáculo y distorsiona las posibles hipótesis de la investigación.

13. En las investigaciones ministeriales, el prejuicio se activa desde el preciso momento en que una víctima de homicidio es percibida como “homosexual”. “Se presume de un crimen pasional ya que la víctima era homosexual”, es una frase que se repite frecuentemente en los boletines oficiales o en las apreciaciones de los agentes de investigación, o incluso en las inferencias que hacen los propios periodistas. Se califica sin más de “pasional” los supuestos motivos del homicidio incluso sin haber identificado al probable responsable o solo porque existan indicios de que la víctima y el victimario tuvieron relaciones sexuales justo antes del hecho violento. Esa percepción prejuiciada responsabiliza en parte a la víctima de su propia muerte, ya que, de alguna manera, habría propiciado el comportamiento violento de su agresor a quien, de paso, también se percibe, sin mayores elementos, como homosexual. El estereotipo según el cual las y los homosexuales son más pasionales que el resto de la población, lo que desde la mirada prejuiciada explicaría la saña utilizada en los homicidios, es el prejuicio que subyace en la figura de “crimen pasional” aplicada a los homicidios de las víctimas percibidas como “homosexuales” (categoría en la que encajan a todas las personas LGBT). La Corte Interamericana

26 Ibid, CIDH, 2015, p. 83
de Derechos Humanos (CoIDH), ha señalado que el concepto de “crimen pasional” es parte de un estereotipo de género encaminado a justificar la conducta del agresor. En particular señala que:

(....) las pruebas relativas a los antecedentes sexuales de la víctima son en principio inadmisibles, por lo que la apertura de líneas de investigación sobre el comportamiento social o sexual previo de las víctimas en casos de violencia de género no es más que la manifestación de políticas o actitudes basadas en estereotipos de género\textsuperscript{27}.

Esta valoración estereotipada de la víctima termina por afectar su derecho a un debido proceso. Al respecto, la misma Corte ha determinado que “los prejuicios personales y los estereotipos de género afectan la objetividad de los funcionarios estatales encargados de investigar las denuncias que se les presentan”\textsuperscript{28}. Es así como los agentes de policía suelen dirigir sus investigaciones para probar hipótesis mediadas por el prejuicio, omitiendo otras líneas investigativas. Antes de analizar la escena del crimen y derivar de ella y del entorno de la víctima las líneas de investigación a seguir, desarrollan una hipótesis prejuiciada y, a partir de ella, realizan las diligencias para probarla. Y en vez de continuar por el camino por el que los guiaría el análisis de las evidencias, descartan de entre éstas aquellas que no se ajustan a su hipótesis previa, le dan peso a aquellas pruebas que les puedan servir de sustento a su dicho y realizan sólo aquellas periciales que son funcionales a su “hipótesis”, sin investigar, sin deducir, sin reflexionar adecuadamente.

Estas líneas de investigación prejuiciadas son discriminatorias y pueden terminar incriminando a personas LGBT inocentes, criminalizando a las parejas de las víctimas, quienes a los ojos de agentes ministeriales y de jueces serían vistas como las culpables del homicidio\textsuperscript{29}. Y en el mejor de los casos, la aseveración de que se trata de delitos “pasionales” sirve a la autoridad investigadora y a la policía judicial para justificar su inacción. Y lo más grave es que esa manera de abordar los homicidios de personas LGBT, justifica además el alegato de que si son pasionales, fueron hechos en estado de “emoción violenta” y, en consecuencia, no deben ser castigados con la misma severidad con que se castigarían si sólo se atendiera a la saña y a la crueldad con que son cometidos. Así, las autoridades de procuración de justicia se vuelven de facto cómplices del asesino\textsuperscript{30}.

14. El prejuicio también subyace en aquellos casos en los que los victimarios arguyen, en sus declaraciones, haber actuado en defensa propia o en legítima defensa ante supuestas insinuaciones sexuales o proposiciones “indecorosas”, para usar el mismo término utilizado en las notas de prensa, por parte de la víctima. Muchas veces son los mismos agentes de investigación quienes aconsejan esgrimir ese argumento a los detenidos diciéndoles que con ello lograrán la reducción de las penas, justificando la agresión por haber actuado en un “estado de emoción violenta” provocado por lo que en otros países se conoce como defensa por “pánico gay” (o “pánico trans”), o por el supuesto atentado a su integridad como hombres cabales. Con esa acción, los agentes ministeriales buscarían arrancar la confesión de culpabilidad a sus interrogados.

15. En algunos de los casos donde se identifica al robo como el móvil de los homicidios, el abordaje prejuiciado de las investigaciones no permite identificar los elementos que indicarían la presencia de prejuicios en el modus operandi de los perpetradores. En estos casos, los elementos de prejuicio estarían presentes en la selección de las víctimas, con base en su orientación sexual e identidad de género, y en el ensañamiento con sus cuerpos, entendido como violencia extrema cuyo propósito es infringir sufrimientos extras a las víctimas a modo de castigo.


\textsuperscript{28} Ibid, párrafo 173, p. 49.


16. Las autoridades encargadas de la seguridad y la procuración de justicia fallaron en otorgar la protección debida a varias de las víctimas, que estaban en riesgo de sufrir violencia, y en procesar debidamente a los presuntos responsables de los homicidios de personas LGBT. La falta de protocolos de actuación o de su incumplimiento fue notorio en el proceder de los agentes de seguridad o ministeriales. Lo que termina por potenciar la vulnerabilidad de las víctimas y acrecentar los niveles de impunidad de los victimarios.

17. Se percibe renuencia por parte de las autoridades encargadas de la procuración de justicia a reconocer la existencia de violencia sistemática y específica relacionada a la orientación sexual, a la identidad y expresión de género de las personas. Algunas fiscalías y autoridades ministeriales no solo no toman en cuenta la especificidad de la violencia en contra de las personas LGBT sino que hacen lo posible por negarla o por ocultarla, descartando de entrada las líneas de investigación del delito de odio o por prejuicio por la mayor complejidad que presentan.

18. No se puede enfrentar de manera adecuada y eficiente un problema del cual se desconocen sus dimensiones y tendencias. La falta de estadísticas, de datos, de sistemas de registro y documentación oficiales de este tipo de violencia es uno de los principales obstáculos del cumplimiento de la obligación del Estado de prevenir, investigar, sancionar y reparar el daño de la violencia que se ejerce en contra de las personas LGBTTI+, en particular la violencia más extrema que termina con la vida de las personas violentadas.
Recomendaciones

1. Atender la recomendación de la CIDH dirigida a los estados miembros de crear sistemas o mecanismos de recolección de datos de manera desagregada y estandarizada de los diferentes tipos de violencia dirigidos en contra de las personas LGBTTTI+. En este sentido, resulta necesario dar pasos concretos para crear un registro nacional de delitos cometidos contra las personas LGBTTTI+, mencionado en el Protocolo Nacional de Actuación para el Personal de las Instancias de Procuración de Justicia del País, en casos que involucren la Orientación Sexual o la Identidad de Género.

2. Atendiendo a las recomendaciones de organismos internacionales como la CIDH, las autoridades mexicanas de procuración de justicia deben diseñar y poner en práctica acciones dirigidas a erradicar los estereotipos de género, basados en la orientación sexual y la identidad de género de las personas, de las investigaciones ministeriales y de los procedimientos judiciales.

3. Es de atenderse la recomendación de la CIDH a los Estados de iniciar las investigaciones judiciales bajo la hipótesis de que medió el prejuicio en los homicidios de personas LGBTTTI+, o no descartarla de antemano31. Para ello, se deben diseñar o adoptar estándares de debida diligencia en la investigación de los delitos cometidos en contra de personas LGBTTTI+, donde se establezcan indicadores claros de la relevancia de la orientación sexual y la identidad/expresión de género de las víctimas en la comisión de delitos.

4. En particular, resulta necesario adoptar medidas para garantizar la vida, la seguridad y la integridad personal de quienes denuncian asesinatos y otros actos de violencia contra personas LGBTTTI+. La falta de garantías inhibe la interposición de demandas y el trabajo de defensa de los derechos humanos en contextos de inseguridad e impunidad.

5. Reconocer el interés legítimo de lo que se denomina “la familia social” de la víctima y de las organizaciones civiles LGBTTTI+ durante el procedimiento penal, en coadyuvancia y apoyo a las investigaciones. Sobre todo, en aquellos casos en los que la familia inmediata de la víctima, por las razones que sean, se mantenga ausente.

6. Establecimiento de un mecanismo de coordinación para la implementación del Protocolo en la materia elaborado por la FGR y la Conferencia Nacional de Procuración de Justicia, contemplando la participación de las organizaciones civiles LGBTTTI+.

7. Elaborar una propuesta encaminada a lograr la homologación del tipo penal de los “crímenes de odio o por prejuicio” en todos los códigos penales del país.

8. Diseñar y difundir campañas específicas y diferenciadas de prevención del delito y la violencia dirigidas a las comunidades LGBTTTI+, elaboradas en conjunto con las organizaciones civiles y comunitarias.
Los asesinatos de personas lgbttt en México: los saldos del sexenio (2013-2018)

Violencia Extrema

Anexos

I. RESÚMENES DE HOMICIDIOS LGBT DEL 2018

05 de enero. Giovanny, mujer trans
El Diario El Mañana reportó el asesinato de la estilista Giovanny, nombre con el que se identificó el cuerpo de una mujer trans encontrada en su domicilio en la ciudad de Matamoros, Tamaulipas. Según la información, el asesinato de Giovanny se describe como un “brutal asesinato a cuchilladas”, sin identificarse al presunto responsable.

16 de enero. Jessica, mujer trans
El cuerpo de Jessica, mujer trans y trabajadora sexual, fue encontrado en la ciudad de Yanga, Veracruz, a escasos metros de la carretera, según información del blog local "Escribiendo con Tinta Negra”. El cuerpo de Jessica fue degollado y encontrado en severo estado de descomposición.

26 de enero. Paola, mujer trans
El medio 24 horas compartió información del caso de Paola, mujer trans y trabajadora sexual que fue asesinada en la alcaldía Gustavo A. Madero en la Ciudad de México. Paola fue asesinada por al menos 5 disparos, mientras viajaba a bordo de un taxi, el cual fue interceptado por otro automóvil donde viajaban sus victimarios.
26 de enero. Brigith, mujer trans
Brigith mujer trans de 23 años, fue asesinada en la barbería en la que trabajaba en la ciudad de Cancún, Quintana Roo. Según el medio Noticias Quintana Roo, Brigith fue ultimada con arma de fuego y no fue identificado el victimario o victimarios.

13 de febrero. Jorge, hombre homosexual
El diario Hoy Tamaulipas registró el asesinato de Jorge, hombre homosexual de 42 años que fue asesinado en su departamento en la ciudad de Nuevo Laredo, Tamaulipas. Según el medio, el cuerpo de Jorge presentaba varias heridas por arma blanca.

13 de febrero. Mujer trans no identificada
En una finca abandonada en la ciudad de León, Guanajuato fue encontrado el cuerpo de una mujer trans de aproximadamente 30 años de edad, asesinada por múltiples golpes y disparos en el cuello, según reportó Milenio.

14 de febrero. Emmanuel, hombre homosexual
Un joven homosexual de 27 años, identificado como Emmanuel, fue asesinado en su domicilio en Miacatlán, Morelos. Según El Gráfico, el cuerpo de Emmanuel presentaba lesiones de arma blanca en la cabeza, las cuales ocasionaron su muerte.

15 de febrero. Lenin, hombre homosexual
La Agencia de Noticias Guerrero, reportó el caso de Lenin, hombre homosexual de 65 años, que fue asesinado por heridas de arma blanca. Lenin era administrador de un condominio en Acapulco, Guerrero, donde residía, y lugar donde fue encontrado su cuerpo.

17 de febrero. Tres mujeres trans no identificadas
Los cuerpos de cinco mujeres, tres de ellas mujeres trans, fueron encontrados en una brecha en el Municipio de Padilla en Tamaulipas. Según la información de El Mañana, la causa de muerte fueron impactos de bala, las víctimas no fueron identificadas en las notas. Los cinco cuerpos yacían a corta de distancia de auto al que se le prendió fuego.

17 de febrero. Isaac, hombre homosexual
Desastre MX compartió la información sobre el caso de Isaac, estudiante universitario de 19 años, abiertamente homosexual, que fue asesinado y cuyo cuerpo fue encontrado en las calles de la alcaldía Venustiano Carranza, en la Ciudad de México. Según la información, el examen forense arrojó que “el cuerpo cuenta con múltiples golpes y con una intoxicación que hasta ahora no hay certeza si se trata de alguna droga o veneno”. Activistas y académicos se pronunciaron sobre el caso de Isaac, tildando el asesinado de posible crimen de odio, puesto que Isaac desapareció luego de una noche de diversión en bares LGBT, y su cuerpo fue hallado, posteriormente, en las calles de la ciudad.

18 de febrero. Isefrán, hombre homosexual
Isefrán, joven bailarín y homosexual de 20 años de edad fue asesinado en Acapulco, Guerrero. Según la información de Noticias Acapulco, el cuerpo de Isefrán fue encontrado en la habitación de un motel de la ciudad, las heridas en el cuello por arma blanca fueron la causa de su muerte, según el examen realizado por el SEMEFO.

05 de marzo. Mujer trans no identificada
En las Coloradas, Sinaloa se encontró en un domicilio el cuerpo de una mujer trans de aproximadamente 42 años. Según El Debate, el cuerpo de la víctima presentaba heridas de arma de fuego. El presunto victimario no fue identificado.

06 de marzo. Ricky, mujer trans y Julio su pareja
Prensa Libre reportó el asesinato de dos personas en Loma Bonita, Oaxaca. Ricky mujer trans de 24 años y su pareja, Julio de 20 años, fueron asesinados al recibir múltiples disparos de arma de fuego en las calles de la localidad.

06 de marzo. Samantha, mujer trans
Samantha, mujer trans de 35 años fue asesinada en Chilpancingo, Guerrero. Según Letra Roja, el cuerpo de Samantha fue encontrado en su domicilio, la investigación busca determinar las condiciones del asesinato, así como en la búsqueda del presunto victimario.

15 de marzo. Sheila, mujer trans
El cuerpo sin vida de Sheila, mujer trans y trabajadora sexual fue encontrado en las calles de Tepic, Nayarit. Según NTV Sheila fue asesinada de un disparo de arma de fuego en el centro de la ciudad. Organizaciones y activistas de la localidad han exigido que el caso se investigue como crimen de odio.

16 de marzo. Hombre no identificado
El medio Lo real de Guerrero reportó el asesinato de un hombre, presumientemente homosexual, según refirieron vecinos, de aproximadamente 30 años de edad. Según la información, la víctima fue asesinada por evidentes disparos de arma de fuego, y su cuerpo fue hallado en las calles de la localidad.

16 de marzo. Lidia y María, mujeres lesbianas
Lidia y María eran una pareja de mujeres lesbianas, que sostenían una relación amorosa de más de dos años. Ambas fueron asesinadas en un bar de Coatzacoalcos, Veracruz. Según la información de Plumas Libres las mujeres estaban en el establecimiento esperando ser atendidas, cuando un grupo de hombres armados entró al lugar y las atacó. Las mujeres perdieron la vida camino al hospital y los victimarios no fueron identificados.

20 de marzo. Kleo, mujer lesbiana
Kleo de 37 años, mujer lesbiana y activista en pro de los derechos de las mujeres y de la población LGBT fue asesinada en Guanajuato. Según la información de Desastre Mx Kleo fue vista por última vez el 11 de marzo, se reportó como desaparecida, hasta que su cuerpo fue encontrado el 20 de marzo en un predio de Coroneo. El cuerpo de Kleo presentaba heridas penetrantes en el cráneo por arma de fuego. El presunto victimario fue identificado y ahora se encuentra vinculado a proceso.

21 de marzo. José Carlos, hombre homosexual
El medio Cambio reportó el asesinato de José Carlos, joven homosexual de 25 años, que se dedicaba al estilismo en Tehuacán, Puebla. Según la información, el cuerpo de “Charlie” fue encontrado en su domicilio, y su cuerpo presentaba evidencias de tortura y mutilación antes de haber recibido más de 15 puñaladas. Según los testimonios, Charlie había recibido ataques con anterioridad, pues unos murales que Charly había pintado en su casa y estética fueron baleados. Cinco días después rompieron los vidrios de la estética de manera intencional. La línea de investigación sigue abierta y el presunto o presuntos responsables no se habían identificado.

26 de marzo. César, hombre homosexual
En Guadalajara, Jalisco se reportó el caso de César, joven homosexual y estudiante universitario de 18 años. Según la información de El País, el cuerpo de César fue encontrado en una barranca, y según el peritaje se concluyó que perdió la vida por “estrangulación indirecta”. Dentro de las líneas de investigación se planteó la posibilidad de un suicidio, sin embargo, familiares y activistas rechazan esta posibilidad, exigiendo que el caso se investigue a profundidad, ya que, de acuerdo con la información de los medios, no hacía mucho que César se había declarado abiertamente homosexual y había estado sufriendo acoso y violencia por ello, como según expresó un desconocido en redes sociales: “Este wey iba conmigo en la universidad. Era gay y acababa de salir del clóset. Mucha gente le hacía bullying y la verdad es que celebro que se haya suicidado”.

31 de marzo. Emiliano, hombre homosexual
Emiliano, hombre homosexual de 35 años fue asesinado en su domicilio ubicado en la Alcaldía Benito Juárez, en la Ciudad de México. Según la información de El Big Data, Emiliano fue herido con un cuchillo en el tórax, y golpeado en la cabeza con un martillo. Se reportó un detenido como presunto responsable.

04 de abril. Yoselyn, mujer trans
El diario Debate reportó el caso de Yoselyn, mujer trans de Álamo, Veracruz. Yoselyn fue asesinada en la habitación de un motel. Según la información, la mujer fue degollada. No hay información sobre el presunto victimario.

08 de abril. Gretchen, mujer trans
En un domicilio en Guadalupe, Nuevo León, fue encontrado el cuerpo de Gretchen, mujer trans, animadora de 40 años. Según la información de Milenio, el cuerpo de Gretchen fue encontrado desnudo en su recámara,
con evidentes huellas de tortura, aunque se determinó que, finalmente, la causa de muerte fue estrangulamiento. Hasta el momento de su registro, se desconocía la información sobre el victimario y el móvil del crimen.

22 de abril. Hombre no identificado
Las calles de la ciudad de Puebla fueron testigos del asesinato de un joven, percibido como homosexual, de aproximadamente 20 años de edad. Se indicó que los vecinos dieron cuenta de que vivía en la zona; no obstante, no pudieron dar su nombre, Según la información de Puebla Roja. MX, el joven fue asesinado brutalmente al recibir cerca de 40 puñaladas, y su cuerpo fue encontrado en las calles de la localidad. Al momento de su registro, se reportó la detención de dos presuntos victimarios.

22 de abril. Brisa, mujer trans
Brisa, mujer trans de 25 años fue asesinada en Tuxpan, Veracruz. Según el medio Periódico Central.MX Brisa fue asesinada por un taxista, cuando “abordó la unidad del asesino, quien la hirió con disparos de arma de fuego luego de que, según las primeras versiones, ella se resistiera a una agresión sexual por parte del conductor”. Según esta versión, el hermano de la víctima resultó también herido, al intentar defender a su hermana del agresor.

25 de abril. Alan, hombre homosexual
La Agencia IRZA reportó el asesinato de Alan, joven homosexual de 27 años, que se dedicaba al estilismo en la ciudad de Chilpancingo, Guerrero. Según relato del medio, el cuerpo de Alan se encontró en el baño de su estética, “estaba hincado frente a la tasa de baño, atado de manos hacia la espalda con cinchos de plástico de seguridad, con un cordón en el cuello y el rostro morado por el acumulamiento de sangre y la asfixia”. No se identificó a ningún presunto responsable.

26 de abril. Mujer trans no identificada
En las calles de Zapopan, Jalisco, se registró el asesinato de una mujer trans de aproximadamente 30 años de edad, quién no fue identificada. Según Reforma, se presume que la víctima fue atacada con una roca que dejaron caer sobre su cabeza. Además, presentaba heridas en la cara por los golpes recibidos.

27 de abril. Mujer trans no identificada
Una mujer trans de aproximadamente 26 años fue asesinada en las calles de Acapulco, Guerrero. Según la nota de Vértice, el cuerpo de la mujer fue encontrado con, por lo menos, dos disparos en la cabeza. Hasta el momento del registro no se identificaron ni a la víctima, ni al presunto responsable.

03 de mayo. Alberto, hombre homosexual
El medio Versiones reportó el asesinato de Alberto, hombre homosexual, artesano en Jaltipan de Morelos, Veracruz. Según el medio, Alberto transitaba en una bicicleta cuando fue interceptado por hombres armados que lo asesinaros a disparos. Se desconoce mayor información sobre los victimarios o el móvil del asesinato.

08 de mayo. Antonio, hombre homosexual
Antonio, hombre homosexual de 35 años, y su madre “Lolita” fueron asesinados a las puertas de su hogar en Amalucan, Puebla. Según relataron “Debate” y “Diario Cambio”, el victimario fue identificado como vecino de Antonio. Y se mencionó que “la ejecución de ‘Toñín’ a manos de su vecino ex militar fue un crimen de odio, debido a las preferencias sexuales del joven, a quien le dispararon en dos ocasiones en la cabeza y tórax”. Según las notas “el agresor, (…), anteriormente había amenazado a la mujer y su hijo, únicos vecinos con los que tenía diferencias, debido a las preferencias sexuales de Antonio”. Después del hecho, el responsable escapó con su familia, hasta el momento del registro permanecía prófugo de la justicia.

16 de mayo. Mujer trans no identificada
En Naranjos Amatlán, Veracruz se registró el asesinato de una mujer trans de aproximadamente 25 años. Según la información de La Opinión de Pozo Rica “el cuerpo se encontró embolsado en la vía pública” sin proporcionarse mayor información sobre la víctima, así como tampoco del o los presuntos responsables.

19 de mayo. Hombre no identificado
El cuerpo de un hombre homosexual de aproximadamente 35 años de edad fue encontrado en una habitación de hotel, en la ciudad de Cuautla, Morelos.
Violencia Extrema

Según el medio Quadratín Morelos, “Un hombre fue asesinado a cuchilladas luego de que fuera atacado por un sujeto con el cual presuntamente mantenía relaciones sexuales dentro de un hotel”, la víctima presentaba múltiples lesiones provocadas por un arma blanca. No se informó sobre la identidad de la víctima o del victimario.

**21 de mayo. Mujer trans no identificada**
Reforma relató el caso de una mujer trans no identificada, de aproximadamente 30 años, asesinada en Escobedo, Nuevo León. Según la información, el cuerpo de la mujer fue encontrado en las calles de la localidad, con evidencias de violencia física, marcas en el cuello por estrangulamiento, sangre en la nariz a causa de los golpes recibidos. Se carece de información sobre el victimario.

**24 de mayo. Yamileth, mujer trans**
En Culiacán, Sinaloa se reportó el asesinato de Yamileth, mujer trans de 23 años. Según la información de SDPNoticias el cuerpo de la reina de belleza de la localidad fue encontrado en una brecha, “recibió varios disparos en la cabeza”, aunque la Cruz Roja llegó cuando aún tenía signos vitales, nada pudo hacerse para salvarle la vida. Se carece de información sobre el responsable o responsables y el móvil del crimen.

**25 de Mayo. Maritza mujer trans**
Maritza de 45 años, dedicada al estilismo en Iguala, Guerrero, fue asesinada en la estética donde laboraba, según informó el diario local YoVías.MX. La información reveló que la mujer fue acuchillada en repetidas ocasiones en el cuerpo y el cuello, desconociéndose información sobre el victimario.

**27 de mayo. Fiorella, mujer trans**
El diario La voz del sureste relató el caso de Fiorella, mujer trans migrante de 31 años, originaria de El Salvador. Según se informó, durante la madrugada dos hombres estuvieron buscando a Fiorella en el lugar donde ejercía el trabajo sexual, y al encontrarla comenzaron a golpearla y herirla con un arma punzo cortante, heridas que le quitaron la vida antes de poder ser atendida. Según las notas, la causa del ataque fue “el pago de piso”, supuestamente Fiorella se negó a seguir pagando las cuotas que el crimen organizado le exigía.

**28 de mayo. Rodolfo, hombre homosexual**
En Alvarado, Veracruz se registró el asesinato de otro hombre homosexual de nombre Rodolfo. Según la información de Gobernantes.Com, “murió tras ser atacado con un picahielo que le perforó la garganta. El cuerpo de la víctima también presentaba marcas de tortura y fue encontrado sin vida en el interior del negocio” familiar en el que apoyaba a sus padres. Durante el registró no se encontró información sobre el victimario y el móvil del crimen.

**05 de junio. Mujer trans no identificada**
El cuerpo de una mujer trans de aproximadamente 53 años de edad fue encontrado en un predio abandonado en Saltillo, Coahuila. Según informó El Siglo Coahuila, el cuerpo de la víctima presentaba huellas de estrangulamiento y aparentemente había sido golpeada con una roca, pues tenía golpes en la cabeza.

**14 de junio. Mujer trans no identificada**
El medio Noventa Grados reportó el asesinato de una mujer trans en Zamora, Michoacán. El cuerpo fue encontrado en una brecha con evidencias de haber recibido un disparo en la cabeza. No se reveló información sobre la identidad de la víctima o el victimario.

**15 de junio. Mujer trans no identificada**
En las calles de Manzanillo, Colima se registró el asesinato de una mujer trans. Según la información de Desastre.Mx, “el cuerpo mostraba huellas de tortura y las manos atadas, presentaba heridas de bala y múltiples golpes en el rostro”. El agresor no fue identificado, ni el móvil del crimen.

**17 de junio. Roberto, Carlos y Rubén, hombres homosexuales**
Roberto, Carlos y Rubén, los tres hombres gay, empresarios y trabajadores, fueron reportados como asesinados en una nota de La Jornada. Según la información de prensa, los cuerpos fueron encontrados en la carretera en
Taxco, Guerrero, [sin vida y con múltiples heridas por arma de fuego además del llamado “tiro de gracia”]. Las organizaciones LGBT+ del estado, así como institucionales lamentaron y condenaron el hecho, exigiendo justicia para las víctimas, por ejemplo, la presidenta del Consejo para Prevenir y Eliminar la Discriminación de Ciudad de México, Jacqueline L’Hoist Tapia, compartió en Twitter: “Lamento y condeno el asesinato de Roberto Vega, Carlos Uriel y Rubén Estrada, activistas por los derechos de la diversidad sexual y de género en Taxco, Guerrero”. Aunque la línea de investigación no fue precisada con exactitud, se mencionó que el asesinato pudo deberse a las actividades políticas y activistas de las víctimas, ya que, por ejemplo, Rubén se desempeñaba como dirigente de la comunidad gay de Taxco, actividades en las que Carlos y Roberto se involucraban regularmente. Se informó, también, de la detención de dos presuntos responsables del asesinato.

19 de junio. Nataly, mujer trans
El medio Vórtice reportó el asesinato de Nataly, mujer trans de 24 años. Era hondureña y llevaba varios años viviendo en Tuxtla Gutiérrez, Chiapas. Nataly se dedicaba al trabajo sexual, y solía recibir a sus clientes en el domicilio que habitaba, y fue uno de éstos el que la atacó hasta asesinarla de múltiples cuchilladas. Se señaló que “la mujer que le rentaba el cuarto a Nataly fue la encargada de reportar su agresión a la policía que arribó al lugar de los hechos y se pudo atrapar al agresor”. Luego de ser detenido en el lugar de los hechos y haber confesado, organizaciones del estado exigen se haga justicia pues se cuenta con los elementos suficientes para procesar al responsable.

24 de junio. Katty, mujer trans
En un bar de Yautepec de Zaragoza, Morelos fue asesinada una mujer trans de nombre Katty. Según la información de Sur Digital Morelos, y de acuerdo con la información de los medios locales “un grupo de hombres armados ingresó al establecimiento y se dirigió específicamente a la mesa en la que se encontraba la mujer trans y le dispararon en por lo menos dos ocasiones y posteriormente abandonaron el lugar”. Los presuntos victimarios o el móvil del crimen no fueron identificados.

25 de junio. Alexa, mujer trans
Alexa, mujer trans de 47 años se reportó como asesinada por Desastre.Mx, según la información, la mujer se desempeñaba como estilista en su domicilio en la ciudad de Aguascalientes, lugar donde su cuerpo fue encontrado. “Las autoridades policiales y paramédicos arribaron al lugar y tras derribar la puerta encontraron su cuerpo sin vida tendido sobre su propia cama. Según reportan los medios locales, la mujer trans presentaba signos de violencia y desangrado”. Se determinó que Alexa fue asesinada por golpes de algún objeto contundente en la cabeza. El presunto responsable fue aprehendido y se encuentra en prisión preventiva enfrentando el proceso penal.

08 de julio. Mujer trans no identificada
En ciudad Nezahualcóyotl, Estado de México, se registró el asesinato de una mujer trans de aproximadamente 45 años, según lo informado por El Gráfico, la mujer fue hallada en el basurero de la localidad, se presume que la víctima fue asesinada “a rocazos” en el rostro, quedando irreconocible. “Los rescatistas indicaron que la víctima presentaba varios golpes —casi todos en la cabeza—, y que probablemente éstos le habían ocasionado la muerte.” No se proporcionó información sobre el victimario.

09 de julio. Pedro, hombre homosexual
Pedro era un joven homosexual de 25 años, y fue asesinado en Umán, Yucatán. Medios como Milenio repostaron su asesinato, según se narró, Pedro fue agredido en su domicilio “cuando al parecer un sujeto entró a discutir con él y primero lo agredió a golpes. En un momento dado, el intruso sacó un cuchillo con el que atacó en varias ocasiones al hoy occiso, quien cayó al suelo en medio de un charco de sangre”. Una vecina de la víctima describió
al presunto victimario y “agregó que el mismo individuo lo agredió a golpes en la calle, cerca de su casa, por el hecho de ser homosexual”. Así mismo, la víctima aún con vida rumbo al hospital “declaró que fue atacado con base en su orientación sexual”. Hasta el momento se desconoce información sobre la identidad del victimario.

09 de julio. **Ricardo, hombre homosexual**
El diario Milenio informó sobre el asesinato de Ricardo, joven homosexual de 28 años. Según la información, el cuerpo de Ricardo fue encontrado en una habitación de hotel en Mérida, Yucatán por la administración del lugar. El cuerpo presentaba evidencias de numerosos golpes y de estrangulamiento como la posible causa de su muerte. El presunto responsable fue detenido en ese momento y se encuentra enfrentando su proceso penal.

15 de julio. **Chanel, mujer trans**
En Toluca, Estado de México se reportó el asesinato de una mujer trans. Se llamaba Chanel, tenía 25 años y se dedicaba al trabajo sexual, según las notas de medios como La silla Rota. La información reveló que “«Chanel» esperaba a un cliente junto con otras chicas (…) cuando desde un auto le dispararon, prácticamente murió frente a sus amigas”; los disparos “le perforaron el pecho y le dañaron el hígado, que le causó derrame interno” lo cual le arrebató la vida. Se informó también, sobre la detención de un presunto responsable, quien fue vinculado a proceso.

16 de julio. **Luis, hombre homosexual**
Luis era un hombre homosexual de 40 años, que residía en Kanasín, Yucatán. Según informó el Diario de Yucatán, el cuerpo de Luis fue encontrado en su domicilio “hallado con las manos atadas, estaba amordazado y fue estrangulado con su mismo pantalón. El cuerpo presentaba avanzado estado de descomposición” cuando fue encontrado. Luis resultó positivo a la prueba de VIH, por lo que, según el diario, una de las líneas de investigación más fuerte estaría relacionada a su estado serológico. Sin embargo, hasta el momento se desconoce la identidad del victimario.

21 de julio. **Adrián, hombre homosexual**
El Siglo Coahuila Mx informó sobre el asesinato de Adrián, estilista homosexual de 51 años, quien residía en Saltillo Coahuila, domicilio donde su cuerpo fue encontrado con evidencias de múltiples heridas por arma blanca, se determinó que Adrián “falleció por taponamiento secundario cardiaco al recibir cuatro heridas punzocortantes”, “tres puñaladas en el tórax y una en el brazo”. Hasta el momento no se cuenta con información sobre el responsable del hecho.

22 de julio. **Alexa, mujer trans**
En una autopista de Silao, Guanajuato fue hallado el cuerpo de Alexa, mujer trans de 21 años. Según la información de El Otro Enfoque y Desastre.MX “la policía sugiere que la mujer transgénero recibió un golpe en la cabeza y fue abandonada a un costado de la carretera. Luego de la autopsia, el Servicio Médico Forense señaló que la causa de muerte fue traumatismo de cráneo” debido a los golpes que recibió. Se carece de información sobre el responsable o responsables de su asesinato.

24 de julio. **Mujer trans no identificada**
Una mujer trans de la cual desconocemos su identidad, fue reportada como asesinada por Reporteros en Movimiento y A fondo Edomex. Según la información, el cuerpo de la mujer fue encontrado en las calles de Chalco, Estado de México “tirado en la banqueta en posición de cubito con una bolsa en la cabeza, el cuerpo no presenta golpes físicamente, por lo que se presume que su muerte haya sido a causa de asfixia”. Sobre el victimario o victimarios no fue revelada ninguna información.

24 de julio. **Elian, hombre homosexual**
Desastre. Mx, Ulisex.Mx y otros medios informaron sobre el caso de Elian, adolescente homosexual de 17 años, estudiante de preparatoria en Orizaba, Veracruz. El cuerpo de Elian fue encontrado en un terreno baldío, “su cuerpo contaba con signos que daban cuenta de la tortura a la que fue sometido antes de ser asesinado y abandonado”, se presume que Elian fue golpeado hasta que le quitaron la vida. Sobre los victimarios o víctima no se proporcionó información.
25 de julio. Alaska, mujer trans
A la orilla de un río en Martínez de la Torre, Veracruz fue encontrado el cuerpo de una mujer trans, se identificó como Alaska, de 25 años y estilista de la localidad. Según la información de El Universal, ”el cuerpo fue ubicado en la colonia Ejidal, semidesnudo, con huellas de tortura y un alambre de púas enredado en el cuello, revelaron policías de la Fiscalía General del Estado (FGE)”, hasta el momento del registro se desconocía información sobre el o los victimarios y el móvil del crimen.

31 de julio. Joseph, hombre homosexual
Joseph es el nombre del hombre homosexual asesinado en Culiacán, Sinaloa. Según información de Debate, el cuerpo de Joseph fue encontrado en su domicilio, con evidencias de heridas de arma blanca, luego de que los vecinos alertaran a las autoridades por extraños movimientos en la vivienda del asesor de moda. Sin embargo, hasta el momento no se ha revelado información sobre el victimario o el móvil del crimen.

5 de agosto. Damián, hombre homosexual
El Universal informó sobre el caso de Damián, joven homosexual de 18 años, que fue asesinado en la capital de San Luis Potosí. Según la información, ”murió después de recibir una brutal golpiza por parte de al menos 10 taxistas afuera [de un antro gay]” de la ciudad, activistas aseguran que existen evidencias para identificar a los presuntos responsables, sin embargo, las autoridades no habían detenido a nadie al momento del reporte de la información.

6 de agosto. Mujer trans no identificada.
Se reportó el asesinato de una mujer trans no identificada, en las calles de Cancún, Quintana Roo. Según Quadratín, el cuerpo fue hallado en un camino de terracería, con ”un disparo de arma de fuego en la cabeza”, y carecía de signos vitales para ese momento. Se desconoce información sobre el victimario o el móvil del asesinato.

6 de agosto. Mujer trans no identificada
El Periódico Correo reportó el asesinato de una mujer trans de aproximadamente 40 años, el cuerpo de la mujer fue encontrado en las calles de Silao, Guanajuato. Según se informó, presentaba “un impacto de bala visible en la cabeza y dos más en la espalda, por lo que pidieron apoyo de la Cruz Roja, pero los paramédicos sólo llegaron a constatar que ya no tenía vida, ante la gravedad de las lesiones que presentaba”. Sobre los victimarios o el móvil del crimen no se proporcionó información.

7 de agosto. Filiberto, hombre homosexual
En la ciudad de Durango ocurrió el asesinato de Filiberto, hombre homosexual de 35 años. Según información de El Siglo de Durango, un amigo de la víctima lo visitó y al no recibir respuesta a sus llamados decidió entrar a su casa donde lo encontró en el suelo, ”el hombre llamó a emergencias y reportó que su amigo estaba inconsciente aparentemente por caerse de las escaleras, pero cuando arribaron los elementos de seguridad se confirmó que Filiberto había recibido un impacto de bala en el pecho, mismo que lo privó de la vida”. El proceso de investigación seguía en búsqueda del responsable.

12 de agosto. Mujer trans no identificada
Una mujer trans de aproximadamente 24 años fue asesinada en Santa María Atzompa, Oaxaca. Según información de La Prensa, y El Imparcial Oaxaca, vecinos de la localidad encontraron el cuerpo de la mujer a la deriva de la calle, las autoridades determinaron que fue asesinada a balazos. Se informó también que la víctima desapareció desde la noche anterior, por lo que familiares “dieron aviso a las autoridades que su principal sospechoso es la pareja sentimental, hasta el momento no identificado y es que en días pasados ya se había levantado una denuncia en contra de él por violencia”. Sin embargo, no se agregó información sobre el presunto victimario.

27 de agosto. Mujer trans no identificada
El diario Debate informó sobre el asesinato de una mujer trans de aproximadamente 32 años, en las calles de Guadalajara, Jalisco. Según la información, la mujer estilista de profesión fue asesinada a escasos metros de su negocio. Por lo menos dos hombres arremetieron a disparos contra ella. ”En el lugar fueron asegurados al menos 28 indicios de bala de arma corta que quedaron cerca del cuerpo”, además, se agregó que “las autoridades detuvieron a tres hombres por el caso y que están indagando si participaron en el homicidio de [la víctima].”
29 de agosto. Mujer trans no identificada
En Chipala de Álvarez se registró el asesinato de una mujer trans de aproximadamente 30 años. Según información de Noventa Grados, y El sol de Acapulco, en las calles de la localidad se encontraron dos cuerpos, el de un hombre, del que no se proporcionó mayor información, y el de una mujer trans, ambos “presentaban huellas de tortura y heridas de arma de fuego”. Se desconoce información sobre la orientación sexual o identidad de género de la otra víctima, así como lo relacionado al posible o posibles victimarios.

9 de septiembre. Alexis, hombre
Alexis, hombre de 28 años de edad, empleado en una empresa, fue asesinado en las calles de la ciudad de Puebla. Según la información de Puebla Roja Mx, Alexis en compañía de su pareja, una mujer trans de nombre Regina, salieron a comprar algo de cenar cuando fueron interceptados por tres personas, una de las cuales le disparó, ocasionándole la muerte. No se añadió información sobre si la mujer resultó herida, pero fue Regina quién denunció los hechos. No se identificó a los presuntos responsables.

11 de septiembre. Ana, mujer trans
En la alcaldía de Iztacalco, en las calles de la Ciudad de México, fue asesinada Ana, mujer trans y trabajadora sexual. Según la información proporcionada por el Centro de Apoyo a las Identidades Trans A.C, compañeras de Ana reportaron su asesinato, cuando desconocidos llegaron a su zona de trabajo y le dispararon, quitándole la vida. Se desconoce información sobre los presuntos responsables.

14 de septiembre. Hombre homosexual no identificado
El diario Tabasco Hoy reportó el asesinato de un hombre homosexual. El cuerpo de la víctima fue encontrado en las calles de Villahermosa, la capital de Tabasco. Según se informó, el presunto asesino fue el sobrino de la víctima, quien “mató a su tío a martillazos en el interior de su domicilio, luego lo envolvió en una sábana y dejó su cadáver en medio de la calle”, se añadió que “en su declaración [el victimario] manifestó que mató a su tío porque le estaba quitando el amor de un homosexual que radica por la zona”, ahora se encuentra enfrentando el proceso penal en su contra.

19 de septiembre. Jhoana, mujer trans
Jhoana, mujer trans de 31 años, residía en Banderilla, Veracruz en la que se desempeñaba como empleada en una tienda de abarrotes. Según Desastre Mx y otros medios, “la joven transgénero cumplía cuatro días privada de su libertad. Sus plagiarios pidieron una cantidad de dinero como rescate, pero no hubo acuerdo. La víctima fue asesinada a golpes, estrangulada con un torniquete de trapo y su cuerpo semidesnudo fue arrojado al fondo de un barranco (…) las últimas palabras que la familia de Jhoana escuchó de ella fueron gritos desde un teléfono mientras era torturada”. Jhoana fue torturada, su cuerpo fue hallado maniatado “con una soga en el cuello y presentaba (…) una herida en el cuello a la altura de la tráquea, herida que probablemente le haya causado la muerte”. Sin embargo, pese a las exigencias de organizaciones y activistas, no se ha proporcionado información sobre los victimarios.

22 de septiembre. Azuany, mujer trans
Desastre Mx, Ulisex.MX, entre otros medios, reportaron el asesinato de la defensora de derechos LGBT+ Azuany, mujer trans de 32 años. Según la información, la mujer era licenciada en Educación y había estudiado la carrera de estilismo, actividades en las que estaba muy activa y por las que era reconocida en su localidad, Chilapa de Álvarez, Guerrero. Azuany fue asesinada a la entrada de su hogar, “fue ejecutada a balazos, con un arma de 9 milímetros, de uso exclusivo del Ejército” Hasta el momento se desconoce información sobre la identidad del victimario o del móvil del crimen.

26 de septiembre. Dayana, mujer trans
En Acayucán, Veracruz, se registró el asesinato de Dayana, mujer trans de 25 años. Según información de Surestesur.com, el cuerpo de la mujer se encontraba en su domicilio pues “Dayana se encontraba conviviendo con quien se cree es su pareja sentimental, cuando se escucharon detonaciones de arma de fuego”. Aunque los vecinos de Dayana identificaron al presunto agresor, las autoridades llegaron cuando éste ya había huido del lugar, y hasta el momento no se ha reportado su identidad o el estado de su proceso.
27 de septiembre. Paulina, mujer trans
Paulina era una mujer trans de 40 años, empleada en un bar en Coatzacoalcos, Veracruz. Según la información de Noreste, el cuerpo de la mujer fue hallado en su domicilio por los vecinos, “tendido en el piso en medio de un charco de sangre”, se determinó que Paulina “recibió tres disparos”. Los responsables escaparon y no han sido identificados.

7 de octubre. Monse, mujer trans
El Sol de Toluca informó sobre el asesinato de Monse, mujer trans quien se dedicaba al trabajo sexual en las calles de Toluca, Estado de México. Según la información, “el agresor arribó al lugar a bordo de un automóvil desde el que le disparó a Monse en múltiples ocasiones. El victimario escapó del lugar inmediatamente”. Y hasta el momento no se ha identificado, ni se ha proporcionado mayor información al respecto.

9 de octubre. Janette, mujer trans
Janette era el nombre de la mujer trans que se reportó como asesinada en las calles San Luis Río Colorado, Sonora. Según la información de La voz de la Frontera y Ulisex.MX, la víctima tenía 33 años de edad y se dedicaba al trabajo sexual. Janette “fue apuñalada y degollada en la vía pública, (…) su cuerpo aún con vida fue localizado por un grupo de mujeres a bordo de un automóvil que dieron parte a las autoridades y en lo que llegaban grabaron con un teléfono la agonía y la muerte” de la mujer. Los responsables o responsables no han sido identificados.

15 de octubre. Marbella, mujer lesbiana
Medios nacionales e internacionales como Telemundo 52, El País, The Guardian reportaron el asesinato de la abogada y defensora de derechos humanos, Marbella, mujer lesbiana, fundadora y directora técnica de un equipo femenil de fútbol en Tijuana, Baja California. Según la información, Marbella fue reportada como desaparecida casi un mes atrás, su cuerpo fue hallado en la playa, “envuelto en una cobija con cinta plástica, y mostraba evidentes marcas de golpes en el rostro, cuello y muslos”, con las manos y los pies amarrados. Sin embargo, nada se ha podido decir sobre los victimarios o el móvil del crimen.

21 de octubre. Mujer trans no identificada
En Cancún, Quintana Roo se registró el asesinato de una mujer trans. Según la información proporcionada por La verdad y Desastre.MX, el cuerpo de la mujer fue hallado sobre un camino de terracería y “las primeras investigaciones señalan que la mujer fue asesinada debido a los múltiples impactos de bala que recibió en el cuerpo”. Sobre el responsable o responsables no se agregó información.

5 de noviembre. Estrellita, mujer trans
Estrellita era el nombre de la mujer trans asesinada en San Antonio la Isla, Estado de México. A fondo Edomex y otros medios, relataron que la mujer se dedicaba al estilismo y tenía 42 años. Según la información, el cuerpo de Estrellita fue encontrado en su domicilio, donde tenía también su negocio, presentando “indicios de descomposición, además, al parecer fue degollado con un arma blanca”. Sobre los victimarios o victimario se desconoce toda información.

13 de noviembre. Ingrid, mujer lesbiana
Medios como El Universal, Debate y La Jornada reportaron el asesinato de Ingrid, adolescente de 14 años, estudiante de secundaria, y según la información, lesbiana. Se narró que la víctima acudió al domicilio de la mujer con la que sostenía una relación sentimental, situado en la Ciudad de México. Y fue de ese lugar del que desapareció. La madre de Ingrid reportó su desaparición, pero días después se le comunicó del hallazgo del cuerpo de Ingrid, “–que había sido reportada como desaparecida desde la noche del lunes– apareció la mañana de ayer dentro de una maleta abandonada. La víctima presentaba un impacto de bala en la cara”. Un video donde aparece un hombre cargando y dejando la maleta en la calle de la Unidad Habitacional Tlatelolco fue ampliamente difundido. Melisa, la pareja de la adolescente asesinada, fue señalada como la principal sospechosa, ahora prófuga de la justicia. Sin embargo, días después su cuerpo también fue encontrado sin vida.

21 de noviembre. Perlita, mujer trans
En Acapulco, Guerrero, ocurrió el asesinato de Perlita, mujer trans de 38 años y que según las fuentes se dedicaba al estilismo. El medio Redesdelsur
y otros medios informaron que Perlita fue asesinada en su estética “ubicada en pleno centro del puerto de Acapulco, (donde) hombres armados llegaron hasta el lugar y directamente se dirigieron contra [la víctima]”. No fue relatada información sobre los presuntos responsables o el móvil del crimen.

**26 de noviembre. Mujer trans no identificada**
El cuerpo de una mujer trans de más de 50 años de edad, fue encontrado en San Pedro Cholula, Puebla. Según información del Periódico Central y de otros medios, el cuerpo de la mujer fue hallado en su domicilio, y “se localizó el domingo por sus familiares y no presentaba signos de violencia, por lo que las autoridades ministeriales sospechan que sufrió un ataque al corazón”. La línea de investigación sobre el caso se reportó como abierta, en búsqueda de resolver el caso con claridad.

**28 de noviembre. José, hombre homosexual**
El diario De peso Quintana Roo informó sobre el asesinato de José, hombre homosexual de 31 años. El cuerpo de José fue encontrado en su domicilio en Cancún, Quintana Roo, y según narró el diario, el cuerpo estaba boca abajo envuelto en una sábana de la cama, sobre un charco de sangre. Los vecinos de la zona indicaron que la noche anterior vieron a Jesús con un hombre desconocido. No se proporcionó información sobre el presunto victimario.

**2 de diciembre. Luisa, mujer trans**
León, Guanajuato fue el lugar donde ocurrió el asesinato de Luisa, mujer trans de 37 años, empleada en una fábrica de calzado. Según información de El Sol de León y de otros medios, el cuerpo de Luisa fue encontrado dentro de un vehículo varado en la calle, y “se estableció que la causa de muerte fue por herida de arma de fuego en la cabeza”. Sin embargo, no se proporcionó información sobre posibles responsables o una línea de investigación.

**11 de diciembre. Mujer trans no identificada**
El cuerpo de una mujer trans de aproximadamente 31 años de edad fue encontrado en las calles de Morelia, Michoacán. Según indicaron La verdad noticias y otros medios, el cuerpo de la mujer fue encontrado en un predio, “se encontraba irreconocible”, pues fue asesinada [no se informa sobre el arma], y su cuerpo fue calcinado. Los medios no informan sobre la identificación del victimario o acerca del móvil del crimen, sin embargo, familiares y activistas denunciaron el caso como un evidente “crimen de odio basado en la orientación sexual y expresión de género de [la víctima]; por ello, no dudaron en calificar el hecho como un acto de transfobia y exigieron a las autoridades resolver el caso, el cual describieron como inaceptable y de una crueldad insólita”.

**15 de diciembre. Hombre homosexual no identificado**
Los medios Palco quintanarroense y Clic Noticias informaron sobre el asesinato de un hombre, mencionaron que “de acuerdo con las primeras investigaciones, la víctima era un maestro homosexual” y que su cuerpo fue encontrado en un predio. Las autoridades “encontraron a una persona muerta, presuntamente encintada y maniatada”, no se determinó la causa de la muerte, mucho menos la identidad del victimario o el móvil del crimen.

**23 de diciembre. Gaby, mujer trans**
En Playa del Carmen, Quintana Roo se registró el asesinato de Gaby, mujer trans. Por información de tvqroo.com y de otros medios se sabe que el cuerpo de Gaby fue hallado en un predio baldío y que a la mujer “le despedazaron la cabeza con un pedazo de block que había en el baldio”. Sobre los victimarios o el móvil del crimen no se localizó información en los medios.

**25 de diciembre. Denisse, mujer trans**
Denisse es el nombre de la mujer trans asesinada en Chilpancingo, Guerrero. Según la información de Bajo Palabra y de otros medios, Denisse se dedicaba al trabajo sexual en las calles de la ciudad. El cuerpo de la mujer fue encontrado en una carretera “en estado de putrefacción envuelto con cobijas y con un puñal enterrado en el pecho”. La última persona con la que se le vio fue un hombre, conocido de la víctima, pero sobre el que no se dijo nada más.

**28 de diciembre. Melissa, mujer lesbiana**
Con información de Radio Fórmula, Proceso y de otros medios, se confirmó el asesinato de Melissa, mujer percibida como lesbiana de 22 años de edad.
Se informó que Melissa fue asesinada en compañía de otra persona cuando se encontraron con un hombre en las calles de la ciudad, “ambos hablaron unos segundos con un hombre a quien aparentemente conocían y que presuntamente vendía droga. (…). Todo iba en calma, pero comenzaron a discutir y éste sacó un arma de fuego con la que disparó directamente contra ella”, causa por la que perdió la vida. El victimario fue identificado, sin embargo, se encuentra prófugo de la justicia, y se mencionó que el móvil podría estar relacionado con el crimen organizado. Se señaló también que Melissa era buscada por la justicia como presunta responsable del asesinato días atrás de la adolescente lesbiana de nombre Ingrid, señalada como su pareja sentimental.

II. HOMICIDIOS POR ODIO EN LOS CÓDIGOS PENALES

Hasta ahora, doce entidades del país han reformado sus leyes en los últimos diez años para incluir tipos penales que agravan las penas de los delitos de homicidios cometidos por odio o discriminación en razón de la orientación sexual y/o la identidad de género de las víctimas, exclusivamente o entre otras categorías contempladas. Aquí presentamos la tabla siguiente que contiene extractos de los artículos correspondientes de los códigos penales alusivos.
<table>
<thead>
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<th>ENTIDAD</th>
<th>TIPO PENAL</th>
<th>CONTENIDO</th>
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| Ciudad de México        | Homicidio calificado cuando se comete con “odio” entre otras condiciones. Contempla la “orientación sexual” y la “identidad de género”. | Artículo 138. El homicidio y las lesiones son calificadas cuando se cometen con: ventaja, traición, alevosía, retribución, por el medio empleado, saña, en estado de alteración voluntaria u odio.  
VIII. Existe odio cuando el agente lo comete por la condición social o económica; vinculación, pertenencia o relación con un grupo social definido; origen étnico o social; la nacionalidad o lugar de origen; el color o cualquier otra característica genética; sexo; lengua; género; religión; edad; opiniones; discapacidad; condiciones de salud; apariencia física; orientación sexual; identidad de género; estado civil; ocupación o actividad de la víctima. | De 20 a 50 años de prisión. |
| Baja California Sur     | homicidio por discriminación motivado por odio Contempla la “preferencia sexual” | Artículo 131. Agravantes del homicidio por discriminación. Cuando en el homicidio concurra alguna de las siguientes circunstancias donde el activo se vea motivado por odio o discriminación hacia el pasivo que lo lleven a perpetrar la conducta se le impondrá de veinte a treinta y cinco años de prisión:  
I. (...)  
II. Que la conducta sea ejecutada dolosamente en razón de la preferencia sexual, el color o cualquier otra característica genética, procedencia étnica, lengua, religión, ideología, nacionalidad o lugar de origen, condición social o económica, ocupación o actividad, vinculación, pertenencia o relación con un grupo social definido, discapacidad, características físicas o estado de salud de la víctima. | De 20 a 35 años de prisión |
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| Baja California  | Agravante del homicidio por discriminación motivado por odio | Artículo 131. Agravantes del homicidio por discriminación. Cuando en el homicidio concurra alguna de las siguientes circunstancias donde el activo se vea motivado por odio o discriminación hacia el pasivo que lo lleven a perpetrar la conducta se le impondrá de veinte a treinta y cinco años de prisión:  
I. (...)  
II. Que la conducta sea ejecutada dolosamente en razón de la preferencia sexual, el color o cualquier otra característica genética, procedencia étnica, lengua, religión, ideología, nacionalidad o lugar de origen, condición social o económica, ocupación o actividad, vinculación, pertenencia o relación con un grupo social definido, discapacidad, características físicas o estado de salud de la víctima. | De 20 a 35 años de prisión |
| Coahuila         | Homicidio calificado cuando se cometa por “preferencias sexuales”, entre otras características. | Artículo 184. El homicidio doloso será calificado cuando se cometa con una o más de las circunstancias siguientes:  
XIII. Cuando el agente cometa el homicidio por la condición social o económica de la víctima, o por su vinculación, pertenencia o relación con un grupo social definido; o por su origen étnico, su nacionalidad o lugar de origen, o por su color o cualquier otra característica genética; o por su religión, edad, opiniones, discapacidad, condiciones de salud, apariencia física, preferencias sexuales, estado civil u ocupación, o en función de la clase de actividad profesional de la víctima, en especial dentro del periodismo (...) | De 25 a 45 años de prisión |
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<td>Colima</td>
<td>Homicidio por razones de orientación sexual o identidad de género</td>
<td>Artículo 123 Bis. Comete el delito de homicidio por razones de orientación sexual o identidad de género, quien prive de la vida a otra persona y se cumpla por los menos uno de los siguientes supuestos: (…) IV. Existan elementos de odio, rechazo o discriminación hacia la orientación sexual o identidad de género de la víctima; (…). La identidad de género, es la vivencia interna e individual del género tal como cada persona la experimenta profundamente, la cual podría corresponder o no con el sexo asignado al momento del nacimiento, incluyendo la vivencia personal del cuerpo (que podría involucrar la modificación de la apariencia o la función corporal a través de medios médicos, quirúrgicos o de otra índole, siempre que la misma sea libremente escogida) y otras expresiones de género como la vestimenta, el modo de hablar y los modales.</td>
<td>De 35 a 50 años de prisión</td>
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<td>Guerrero</td>
<td>Homicidio en razón de la orientación sexual Contempla también a la “razón de género”</td>
<td>Artículo 136. Homicidio en razón de la orientación sexual. A quien dolosamente prive de la vida a otra persona por su orientación sexual o razón de género, se le impondrá una pena de veinte a cincuenta años de prisión.</td>
<td>De 20 a 50 años de prisión</td>
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| Michoacán | Homicidio en razón de la preferencia sexual  
Contempla también la “identidad de género” | Artículo 121. Homicidio en razón de la preferencia sexual.  
Comete el delito de homicidio en razón de la preferencia sexual quien prive de la vida a mujer u hombre por razones de su preferencia sexual o identidad de género, cuando se actualice alguna de las siguientes circunstancias:  
I. La víctima presente signos de violencia sexual de cualquier tipo o cuando el fin explícito consista en dañar o atacar a la víctima por su preferencia sexual;  
II. Cuando existan antecedentes o datos de que la víctima haya sufrido cualquier tipo de violencia en el ámbito familiar, laboral o escolar por la condición de su preferencia sexual, por parte del sujeto activo;  
III. Cuando existan antecedentes o datos de que la víctima sufrió amenazas relacionadas con el hecho delictuoso, acoso o lesiones de parte del sujeto activo, derivado de su preferencia sexual;  
IV. Cuando el cuerpo de la víctima sea expuesto de manera degradante, con el fin explícito en dañar o atacar a la víctima en su preferencia sexual.  
El homicidio en razón de la preferencia sexual se considerará homicidio calificado. | De 20 a 40 años de prisión |
|------------|-----------------------------------------------------------------|--------------------------------------------------------------------------------|--------------------------|
| Nayarit    | Homicidio calificado  
Cuando se cometan por motivos de “preferencia sexual” | Artículo 361. Se entiende que el homicidio y las lesiones son calificados:  
(…)  
VII. Cuando se cometan por preferencia sexual o religiosa u origen racial; | De 20 a 50 años de prisión |
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<th>Puebla</th>
<th>Homicidio calificado cuando se comete con odio entre otras motivaciones. Contempla las “preferencias sexuales”</th>
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<td>Artículo 323. El homicidio y las lesiones son calificadas cuando se cometen con: Premeditación, ventana, alevosía, traición u odio. Artículo 330 Bis. Para los efectos del artículo 323 de este Código, existe odio cuando el agente lo comete por razón del origen étnico o nacional, raza, género, edad, discapacidad, condición social o económica, condiciones de salud, preferencias sexuales, apariencia física, estado civil, creencia religiosa, ideología política, opiniones expresadas o cualquier otra que atente contra la dignidad humana, la libertad o la igualdad. La existencia de cualquier otro móvil no excluye el odio; siempre se estará a lo que aparezca probado.</td>
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<td>De 20 a 50 años de prisión</td>
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<th>Querétaro</th>
<th>Homicidio calificado cuando se cometa por (...) odio manifiesto por la preferencia sexual o identidad de género de la víctima</th>
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<td>Artículo 131. Se entiende que el homicidio y las lesiones son calificadas cuando: (...) IV. El delito que se cometa por medio de inundación, incendio, asfixia, minas, bombas, explosivos o cualquier otra substancia nociva a la salud, o con ensañamiento, crueldad o por motivos depravados o de odio manifiesto por la preferencia sexual o identidad de género de la víctima. (Ref. P. O. No. 91, 4-XII-15) Se entiende por odio manifiesto, que la víctima presente signos de violencia sexual o mutilaciones o quemaduras o asfixia o existan antecedentes o datos previos al hecho, que establezcan que hubo amenazas o acoso contra la víctima relacionadas a su preferencia sexual o identidad de género.</td>
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<td>De 15 a 50 años de prisión</td>
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<td>Estado</td>
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| San Luis Potosí | Homicidio calificado cuando se cometa por odio, entre otras motivaciones. Contempla la “orientación sexual” y la “identidad de género”. | Artículo 144.\- El homicidio y lesiones calificados cuando se cometan por odio, entre otras motivaciones. Contempla la “orientación sexual” y la “identidad de género”.

De 20 a 45 años de prisión |
| Veracruz   | Homicidio calificado cuando son cometidos por motivos de odio. Contempla la “orientación sexual” y la “identidad de género”. | Artículo 144.- El homicidio y las lesiones tendrán el carácter de calificados cuando se cometen: (…) VII. Por motivos de odio, derivados del origen étnico o nacional, lengua, raza, color, preferencias sexuales o identidad de género de la víctima. De 20 a 70 años de prisión |
| Aguascalientes | Homicidio calificado asociado a la discriminación. Contempla la “orientación sexual” | Artículo 107.- Homicidio y lesiones calificados. El Homicidio Doloso y las Lesiones Dolosas serán considerados como calificados: (…) IV. Cuando el resultado sea asociado a la discriminación de la víctima; Tipos Penales Protectores de la Dignidad de las Personas Artículo 192.- Discriminación. La Discriminación consiste en: I. Provocar o incitar al odio o a la violencia, o negar o restrinir derechos laborales, por razón de edad, sexo, embarazo, estado civil, raza, idioma, religión, ideología, orientación sexual, color de piel, nacionalidad, origen o posición social, trabajo o profesión, posición económica, carácter físico, discapacidad o estado de salud. De 20 a 50 años de prisión |
Executive Summary

In the previous administration, in the six-year term of Enrique Peña Nieto’s government, at least 473 LGBT persons were murdered in Mexico for causes related to sexual orientation or gender, and the gender identity and expression perceived from the victims. That number means that on average at least 79 LGBT persons are murdered yearly in our country, which equates to 6.5 homicides per month. The last two years of the six-year term were the most violent, since they show an increase of 30 percent in the number of homicides with relation to the average of the previous years. Nevertheless, we should note that the real number is superior to the one registered, since the press memos, of which this report is based on, do not report all the violent murder cases by homicide against LGBT persons.

Trans women or trans persons with feminine expression are the most exposed to suffer homicidal acts of violence, since they were the most numerous with 261 trans femicides, which represents 55% of the total; following those of gay/homosexuals, with 192 cases, 40% of the total. Likewise, the femicides of 9 lesbian women were registered; the homicides of 5 bisexual men, or perceived as such; and the femicide of one bisexual woman, or perceived as such.

The general average age of the victims was 34 years. In the case of trans women, the average age was 32 years, less than the general average; while the average age of gay men/homosexuals was 37 years. In the case of the other sexual orientations, it is not relevant to establish it for the reduced number of identified victims.

At least 22 of the victims would have suffered sexual violence before or after being killed, and the bodies of at least 60 of the victims appeared with “torture marks” or clear signs of extreme cruelty.

Of the numbers obtained it stands out that 24 people that advocate or promote LGBT rights were murdered in all the past six-year term; likewise, 9 were HIV carriers; and 4 were Central American migrants.

By entities of the republic, the results highlight that seven states concentrate almost half of the LGBT murder. Veracruz tops the list with at least 43 murders, followed by Guerrero with 39, Quintana Roo with 33, Mexico State with 30, Chihuahua with 28, Puebla with 27, and Tamaulipas with 25.

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1 Excerpt of Executive Summary Translated, p. 13-15.
Patterns of violence occur based on the sexual identity and of gender of the victims. Whereas the majority of gay men/homosexuals’ bodies were found in their residences with multiple wounds caused by sharp objects or asphyxiated, the bodies of trans women were found in public streets or abandoned lots with wounds caused by firearms and sharp objects. It draws attention that 6 of the lesbian women were killed with their partner or in the presence of their partner.

The distinctive gesture that characterizes the homicides of LGBT persons is the excessive cruelty with which they are committed. The results of the observation account for the multiple acts of violence that many of the victims were subjected to before being murdered or the cruelty to which their already lifeless bodies were subjected to. At least 22 of the victims would have suffered sexual violence before or after being killed, and the bodies of at least 60 of the victims appeared with “torture marks” or clear signs of extreme cruelty. Regarding the line of investigation followed by the attorney generals and the public prosecutors’ offices, it stands out the little relevance that is attributed to sexual orientation and gender identity in their investigations, and, when it is given, they do so in a prejudicial manner. In that regard, only in 10% of the cases hate crime is mentioned as a possible line of investigation. In contrast, the stereotypical “passional crime” (term charged with prejudices) appears as the principal line of investigation in 26.5% of the homicides. And in the context of generalized violence that the country experiences, it stands out the 24 murders of LGBT persons, victims of organized crime.

Likewise, 136 suspected culprits of the homicides were identified, which would equate to only a third of the number of total LGBT victims registered, whose average age was 24 year. Average age less than that of its victims. Of those, only 14 received a condemnatory sentence at the moment of doing the observations and 6 were released due to mistakes or deficiencies in the process made by the public ministries.

Of the conclusions of the reports, it stands out the necessity of developing official registry systems or mechanisms, from the security institutions of the State, of this type of violence motivated by hate/prejudice towards the sexual orientations and gender identity of the victims. Particularly the one of creating the National Registry of Criminal Incidences against LGBTI persons, contemplated by the FGR in it Conduct Protocol about this matter.
CERTIFICATE OF TRANSLATION

I, Natalie Nicole Trinidad Lira, am competent to translate from Spanish into English, and certify that the translation of Article: Violencia extrema, los asesinatos de personas LGBTTT en México: los saldos del sexenio (2013-2018) is true and accurate to the best of my abilities.

[Signature]

Natalie Nicole Trinidad Lira
(signature of translator)

594 Dean Street, Brooklyn, NY, 11238
(Address of Translator)

212-714-2904
(telephone number of translator)
Tab. 13.
NO SAFE PLACE

SALVADORANS, GUATEMALANS
AND HONDURANS
SEEKING ASYLUM IN MEXICO
BASED ON THEIR SEXUAL ORIENTATION AND/OR GENDER IDENTITY

AMNESTY INTERNATIONAL
Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

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The countries of the Northern Triangle of Central America (El Salvador, Guatemala and Honduras) are among the most violent in the world. In addition to alarming levels of general insecurity\(^1\), their respective murder rates are well above what the World Health Organization considers to be epidemic levels\(^2\), and more than 75 percent of these are classified as deaths by firearm\(^3\).

This situation of violence, added to the institutional weakness in these countries, has resulted in increasing numbers of people fleeing their countries of origin in fear of their life. The investigation entitled “Home Sweet Home?” conducted by Amnesty International in 2016 concluded that violence has become a key push factor for migration, particularly in El Salvador and Honduras where high levels of violence and increasing territorial control on the part of gangs or “maras”\(^4\) is seriously affecting people’s ability to exercise their human rights\(^5\).

Despite the difficulty in obtaining accurate figures from the countries’ governments, there is evidence that Lesbian, Gay\(^6\), Bisexual, Transgender\(^7\) and Intersex people (LGBTI) are particularly exposed to violence in the Northern Triangle countries, and that this is related intrinsically to the multiple forms of discrimination that LGBTI people face in the different spheres of their family and working life, as part of society more widely and institutionally, on the basis of their gender identity\(^8\) and/or sexual orientation\(^9\).

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2. The World Health Organization (WHO) considers a murder rate of more than 10 per 100,000 inhabitants to be an epidemic level. However, in 2016, the murder rate in El Salvador was recorded as 81.2 per 100,000 inhabitants (National Civil Police), in Honduras 58.9 per 100,000 (SEPOL) and in Guatemala 27.3 per 100,000 (National Civil Police).

3. Instituto Igarapé. Homicide Monitor, 2016, available at homicide.igarape.br

4. Terms used to indicate certain groups characterized by certain violent criminal activities and generally associated with territorial control throughout the Northern Triangle of Central America, particularly El Salvador and Honduras.


6. The capacity of each person to feel a deep emotional, affective and sexual attraction to people of the same gender and the capacity to maintain intimate and sexual relations with these people. The term lesbian is generally used to refer to female homosexuality and gay to male homosexuality.
Amnesty International has documented how, given the lack of options for protecting their lives and physical integrity in their own countries, gay men and trans women choose to flee and seek protection in other countries such as Mexico or the United States. For many of them, however, this path is paved with new acts of violence and discrimination at the hands of criminal gangs and the authorities in the transit and/or destination countries. When detained, they also find themselves in a highly vulnerable situation and may even be deported back to their countries of origin; i.e. to the hell from which they have escaped, and where they will again be attacked. In other words, gay men and trans women are exposed to gender-based violence at every point on their journey in search of protection.

The stories of Carlos, Camila, Marbella and Cristel, whose names have been changed to protect their safety, are representative of the primary human rights abuses and violations that gay men and trans women suffer due to their sexual orientation and/or gender identity, both in their countries of origin and when they seek international protection in other countries such as Mexico. When using pseudonyms to ensure the anonymity and safety of these people, some details of their personal life and geographical or temporal references have also purposely been omitted from their stories. These measures demonstrate the fear they live in for their lives.

Amnesty International would like to thank those who shared their stories, as well as the activists and human rights defenders who provided the information with which to produce this document.
Carlos, Marbella, Cristel and Camila suffered acts of discrimination, exclusion and physical violence from an early age in their respective countries of the Northern Triangle due to the simple fact that their sexual orientation and/or gender identity was different from the traditionally accepted heterosexual and patriarchal social norms.

Carlos, a young Honduran of 25 years of age recalls that, on various occasions during his childhood and adolescence, he experienced humiliation, rejection as well as beatings from family members “for being gay”. Members of the gang that controlled his neighbourhood also attacked and threatened him for the same reason, and so he was forced to flee his country. For her part, Cristel, a 25-year-old Salvadoran trans woman, also saw leaving her country as a way of avoiding the threats and attacks she received from gang members in her neighbourhood “for not being a biological woman”.

In the case of Camila, another trans woman from El Salvador aged 34, it was the police from her neighbourhood who persecuted her and issued death threats “for being trans” on numerous occasions, until she had no other option but to leave the country. Marbella, a 20-year-old Guatemalan trans woman, was the victim of a trafficking ring that recruited LGBTI people, and was subjected to further threats and intimidation following her rescue.
According to the UN High Commissioner for Refugees (UNHCR), LGBTI people are one of the “risk profiles” for asylum seekers from El Salvador and Honduras, and it is therefore acknowledged that these people may need international protection in accordance with the 1951 Refugee Convention and its 1967 Protocol.

Although it is difficult to obtain official and accurate figures on attacks against LGBTI people in El Salvador, Guatemala and Honduras, different non-governmental organizations (NGOs) and international organizations have documented that they are particularly affected by the widespread climate of violence and insecurity in the Northern Triangle of Central America. LGBTI people are frequently the target of different forms of violence due to their real or perceived sexual orientation and/or gender identity, such as, for example, intimidation, threats, physical aggression, sexual violence and even murder.

Amnesty International received a number of statements from gay men and trans women testifying to having been raped in their countries. According to UNHCR, 88 percent of LGBTI asylum seekers and refugees from the Northern Triangle interviewed in the context of a study reported having suffered sexual and gender-based violence in their countries of origin.

Carlos (Honduran) interviewed in 2017.

"They hit me, they tried to kill me, they were looking for me, for the same reason, just because I was gay, and there was nowhere to hide."

Neighbourhood in El Salvador © Pablo Allison for Amnesty International

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11 The 1951 Refugee Convention is the fundamental binding international treaty that serves as the basis of international law on refugees. The 1967 Protocol to the Refugee Convention picks up all the content of the 1951 Convention and simply adds an extension of its application to all refugees, not only those fleeing their country due to specific time-constrained conflicts during the 1940s and 50s. Mexico has ratified both the Convention and the Protocol, while the United States has ratified the Protocol, thus acquiring identical obligations.


In terms of murders of LGBTI people, NGOs that are gathering and systematizing information on the situation have reported high numbers of murders in recent years (see table).

A study conducted in 2016 indicates that the Northern Triangle region is one of the most dangerous regions for trans women. These same NGOs warn that the real figures could be higher given that not all cases are systematically denounced or adequately reported.

Violence towards LGBTI people is rooted in the environment of discrimination and stigma that is prevalent in society generally towards these people, who differ from the traditionally established patriarchal social norms and gender roles. This situation is reflected in the testimonies received by Amnesty International, which bear witness to multiple acts of verbal and physical violence and exclusion in different arenas of daily life: from within their own family, community and society more generally, including at school and, later, in the workplace. Nor are the “maras” or gangs in the Northern Triangle of Central America, characterized by their violent criminal behaviour and generally associated with territorial control, excluded from this reality. It has been documented that they are governed by highly sexist codes of conduct, and they often attack LGBTI people for real or perceived their gender identity or sexual orientation, subjecting them to acts of physical and sexual violence, as well as blackmail.

“I was forced to leave my country, I didn’t ask to, just because I was transsexual, just because I was not a biological woman”

Cristel (Salvadoran) interviewed in 2016.

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ATTACKS ON LGBTI PEOPLE IN THE NORTHERN TRIANGLE OF CENTRAL AMERICA

HONDURAS

According to the NGO Cattrachas Lesbian Network—which monitors violent deaths of LGBTI people on the basis of information appearing in the media—264 murders of LGBTI people were reported in Honduras between 2009 and July 2017, of which 152 (or 58 percent) were gay men and 86 (or 32.5 percent) were trans people. Among these were a number of activists and defenders of LGBTI rights, such as René Martínez Izaguirre, President of the Sampedrana Gay Community, who was disappeared and killed in June 2016.

The Association for Communicating and Training Trans Women in El Salvador (COMCAVIS TRANS) reported a total of 28 serious attacks, most of them murders, perpetrated against LGBTI people between January and September 2017. During February 2017, three trans women were brutally murdered within a 72-hour period. A fourth was brutally attacked just days later.

EL SALVADOR

The serious violence and discrimination suffered by LGBTI people has been highlighted on a number of occasions by international human rights bodies. For example, at the end of 2016, five trans women were reported murdered within a six-week period. For its part, the NGO Transgender Europe indicated that 40 trans people were murdered in Guatemala during 2016.

GUATEMALA

The Association for Communicating and Training Trans Women in El Salvador (COMCAVIS TRANS) reported a total of 28 serious attacks, most of them murders, perpetrated against LGBTI people between January and September 2017. During February 2017, three trans women were brutally murdered within a 72-hour period. A fourth was brutally attacked just days later.


In 2016, when she was 19 years old, Marbella, a Guatemalan trans woman, replied to an invitation to participate in a beauty contest in Guatemala City, which turned out to be a recruitment front for a trafficking ring. Marbella states that she was held in a house for several months during which time she was subjected to sexual exploitation along with other trans women from Central America, until she was rescued by a police operation. A number of those responsible were subsequently arrested and a criminal investigation opened.

On her release, Marbella wanted to return home and resume her life and studies. She relates, however, that shortly after her return, she began to receive warnings that those responsible for her previous ordeal were looking for her and she was even threatened. Terrified, Marbella stopped going to school, no longer went out and shut herself in the house for fear that the threats would be carried out.

The threats did not stop, and she felt unprotected in her own country and so, at the end of 2016, she decided to leave for Mexico to protect her life and integrity.

When Amnesty International interviewed her in a border town in southern Mexico at the end of March 2016, she did not know what stage the legal proceedings in Guatemala had reached. She stated that she was, however, afraid of being so close to the situation from which she was escaping. Some weeks later, the Mexican state granted her international protection.
Carlos decided not to report the attacks and threats he received in Honduras, having seen how many of his friends, also gay, were attacked and persecuted specifically for having made complaints.

Like Carlos, most of the trans women and gay men commented in their interviews with Amnesty International that to go to the Police or Prosecution Service would mean or has meant an additional and direct risk to their safety, their life or their integrity; rarely was such an act perceived as synonymous with obtaining protection from the violence they faced.

For fear of suffering reprisals at the hands of their attackers, and given the lack of trust in the authorities responsible for law enforcement, who are regarded as being involved in corruption, complicity and cover-ups with organized criminal gangs, many people prefer not to report the attacks they suffer.

“I never tried to make a complaint because of what happened previously to some friends. My friend (...) went to report a crime and he hadn't even finished making the complaint when they were already at his front door, which is why he went to Mexico; another friend went to make a complaint and was killed on the way home, after doing so”

Carlos (Honduran) interviewed in 2017.
More serious still, in Camila’s case, from El Salvador, the insults, death threats and persecution she experienced came from a police officer, who even turned up at her house with a firearm. Camila’s story is unfortunately not a one-off but part of a backdrop of reported attacks on LGBTI people, perpetrated directly by members of the security forces and fostered by the context of discrimination and stigma prevalent in society.

For her part, Cristel related how she was subjected to unjustified controls in the street and searches of her belongings by members of the Salvadoran police, apparently due to her gender identity and expression. Local activists indicated in this regard that trans women are particularly exposed to harassment, unjustified searches and arbitrary detentions from the police because of the stigma they bear.

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**FEAR OF REPORTING**

A study conducted in El Salvador in 2015 concluded that 72 percent of trans women who had been attacked had chosen not to report the incident.

The reasons given were: “Firstly for fear of reprisals from the attackers and, secondly, due to a lack of credibility in the justice system, as they felt they would be ignored, discriminated against and mocked by the Civil National Police.”

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When Camila went to the police in El Salvador to report the attacks she had suffered, rather than taking her complaint seriously and offering her protection, the officers mocked her gender identity.

Camila insisted on exercising her rights like any other person but, but the officers threatened to lock her up so, in the end, she gave up and went away.

“Told them I knew my rights and that I could make a complaint. The response was that they were going to lock me and my partner up.”

Camila (Salvadoran) interviewed in 2017.
A study conducted in 2014 in this regard revealed the extent of prejudice due to sexual orientation and/or gender identity within the Salvadoran National Police. It concluded that 66.8 percent of the 413 police officers interviewed believed that, in accordance with national law, LGBTI people did not have the same rights as others.\textsuperscript{22} The few people who dare go to the authorities to report a crime are frequently re-victimized or treated with disdain, indifference and discrimination due to their gender identity and/or expression, and so they rarely follow their case up and even, sometimes, withdraw it. The above is in violation of the right of all people to enjoy equal protection before the law without discrimination.

\textsuperscript{22} ESMULES and CIPAC. Actitudes hacia las personas LGBTI por parte de las fuerzas policiales. (Police Attitudes Towards LGBTI People). El Salvador, September 2014. Available at: www.cipacdh.org/pdf/Informe_El_Salvador_FINAL.pdf (in Spanish only)

Despite some progress within certain institutions responsible for law enforcement, the testimonies gathered bear witness to the fact that a lack of sensitivity continues to form a barrier to protecting the rights of LGBTI people.
Camila is a 34-year-old Salvadoran trans woman. She recounts that, at the start of 2016, a police officer who lived in the same neighbourhood as her began to harass her for being trans; he hounded her and insulted her whenever their paths crossed, even in front of her partner or family.

To begin with, Camila ignored her neighbour’s violent and transphobic behaviour but his aggressive attitude increased as the months went by. The officer even threatened Camila and her partner with death on a number of occasions while carrying a firearm, and even in her own home. For fear that these threats would come to pass, Camila left her home and went to live with relatives. She also went to the Civil National Police (PNC) with the aim of reporting the matter.

As a trans woman, however, she was mocked and insulted by some of the officers present. When she insisted on making a complaint, knowing that she had every right to do so, the police officers threatened to lock her up, following which she gave up and left.

Camila recounts that she continued receiving telephone death threats over the ensuing weeks, even in her new home, from the same individual, who told her he knew she had gone to the police. Fearing for her life, and faced with this level of persecution and surveillance, Camila saw no other option but to flee to Mexico with her partner.

After crossing the Mexican border, Camila and her partner caught a minibus for their journey onward but were forced to get off shortly before entering Tapachula due to an impending migration control. Camila says that a short distance after having got off the minibus, she and her partner were stopped by uniformed individuals who she says insulted their gender identity, threatened them and took their money. Camila made a complaint to the Special Prosecution Service for Crimes against Immigrants. When she was interviewed two months later, she was unaware of what stage the investigation was at.

Camila was recognized as a refugee at the end of April 2017. She subsequently went to live in another town in Mexico.

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23 Tapachula is a town in Chiapas State, on the south-eastern border with Mexico, adjoining Guatemala.
In accordance with international human rights law, any discrimination based on the sexual orientation and/or gender identity of a person is prohibited:

“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”
(Article 26 of the International Covenant on Civil and Political Rights)

It follows from the above that although the political constitutions of countries of the Northern Triangle do not expressly include this prohibition nor make explicit reference to LGBTI people, these countries do have a duty to ensure that all people enjoy equal protection before the law without discrimination.

NO EFFECTIVE ACCESS TO JUSTICE

In the countries of the Northern Triangle, where high levels of impunity are common, LGBTI people very rarely obtain justice when they report the serious attacks they have suffered.

In a study conducted into impunity for such attacks, the NGO Cattrachas noted that, of the 225 violent deaths of LGBTI people recorded during the period 2008 to 2015, only 13 had resulted in a conviction.

In these countries, discriminatory prejudice, as well as a lack of awareness and training among justice operators as regards these kinds of attack, have been cited by local activists as factors that contribute to the lack of investigation of cases of violence.

This lack of effective access to justice only perpetuates the circle of violence to which LGBTI people are subjected and increases their lack of protection. Silence and escape are therefore often the only alternatives they have to protect their lives and physical integrity.

24 IACHR press release, IACHR Wraps Up On-Site Visit to Guatemala, 4 August 2017. Available at: www.oas.org/en/iachr/media_center/PReleases/2017/114.asp; El Faro, La Fiscalía sólo ha podido llevar a tribunales uno de cada 10 homicidios cometidos en 2015 (The Prosecution Service was only able to bring charges in one in 10 murders committed in 2015), 28 March 2016. Available at: elfaro.net/es/201603/el_salvador/18189/


26 Cattrachas Lesbian Network, Informe sobre muertes violentas de la comunidad LGBTI. Énfasis en impunidad (Report into violent deaths in the LGBTI Community. Emphasis on Impunity), 2016. Available at: www.cattrachas.org/gestioncia.php (in Spanish only)
INVISIBILITY

We do not know the exact number of trans women and gay men who, like Camila, Carlos, Marbella and Cristel, flee the violence of the Northern Triangle of Central America each year. This is because the attacks that LGBTI people suffer in their countries of origin are rarely reported to the national authorities or classified as such, for the reasons described above, and because many of the destination countries do not compile statistical information by sexual orientation and/or gender identity for the asylum seekers and refugees they take in.

For example, it was only in 2015 that US Immigration and Customs Enforcement, known as the ICE, stated that it would gather information on the gender identity of those detained. This lack of accurate data not only contributes to the dissimulation of a real phenomenon but hinders the design and implementation of adequate measures to guarantee the rights of LGBTI people.

Most of the information available in this regard comes from monitoring conducted by a number of NGOs and from information gathered by UNHCR and its partners in the context of their activities with LGBTI people.

For example, the NGO Immigration Equality which provides guidance to LGBTI asylum seekers in the United States indicated that of all the requests they have received over the last years, Guatemala, Honduras, and El Salvador are among the 10 countries with the highest numbers of requests. In March 2017, the Salvadoran NGO COMCAVIS Trans indicated that at least 136 LGBTI people had left the country since 2012. In practice, however, the figures are likely to be higher.

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27 Immigration and Customs Enforcement (ICE), Transgender Care Memorandum, June 2015. Available at: www.ice.gov/news/releases/ice-issues-new-guidance-care-transgender-individuals-custody

UNHCR informed us that, during 2016 in Mexico, 159 LGBTI people were provided with humanitarian assistance by UNHCR and its partners. Again, however, it is possible that the figures are higher given that not all people register with UNHCR or its partners.

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The testimonies gathered by Amnesty International demonstrate that, faced with the urgent need to protect their life and integrity, trans women and gay men generally flee without knowing where they are going, that they have a right to request asylum or what risks await them on the journey. These risks are particularly serious given their sexual orientation and/or gender identity, and often mean they face the same abuses and violations of their rights that they are trying to escape from at home.

For example, Camila remembers that after getting off the minibus that had taken her and her partner to Tapachula in southern Mexico, she was threatened and had her money stolen by uniformed individuals, who also insulted her due to her gender identity. For her part, Cristel, a Salvadoran trans woman, recounts how she was kidnapped by a supposed taxi driver on her arrival in Mexico and subjected to several days of rape and sexual exploitation by different people who also stigmatized her and insulted her because of her gender identity.

In the south of Mexico, Amnesty International also interviewed a Honduran trans woman asylum seeker who stated the reasons that had forced her to flee her country firstly to Guatemala, and then recounted the abuses she had suffered on reaching Guatemala City, where she was captured by a trafficking and prostitution ring.

LGBTI people who are forced to flee are particularly vulnerable to violations of their human rights. In addition to the serious situation they experience in their own countries, they suffer further acts of violence on the journey and/or in their destination countries.

In Mexico, high levels of crime and human rights violations are reported against migrants generally, including attacks, robberies and kidnappings perpetrated by organized criminal gangs, sometimes in collusion with different government authorities, as well as different kinds of abuse of authority by the security forces and other Mexican migration services, which go unpunished in 99 percent of the cases reported. Faced not only with these kinds of attack, LGBTI people also find themselves exposed to acts of violence due to their real or perceived gender identity and/or sexual orientation.

According to UNHCR, two-thirds of LGBTI asylum seekers and refugees coming from the Northern Triangle and interviewed in 2016 as part of a study reported suffering sexual and gender-based violence in Mexico after crossing the border at blind spots.
In addition, the testimonies received by Amnesty International highlight the fact that, the whole way along their escape route, they are subjected to stigma and discrimination from the authorities, and also sometimes in the shelters that receive them, due to the injurious prejudice surrounding their sexual orientation and/or gender identity that is also prevalent in this country.

It is important to note, in this regard, the high numbers of Mexican LGBTI victims of violence each year and the fact that many of them, including transgender people, in turn seek protection in other countries.\(^\text{33}\)

LGBTI people also suffer violence, both verbal and physical, from other migrants. This can be seen, for example, in insults or contemptuous words that refer to their sexual orientation and/or gender identity, or in more serious aggression. When we interviewed Carlos for the first time in the shelter where he was staying in the South of Mexico, he told us that he was afraid to go outside, and tried to avoid doing so.

Despite this, Carlos commented that, a short while ago, while walking along a path, he was brutally attacked by other migrants. His aggressors knew he was gay and so they insulted him for his sexual orientation. He states that he was also raped.

Finally, the information gathered by Amnesty International—in its interviews with asylum seekers in various border towns in southern Mexico, and with workers from shelters and other organizations—bears witness to the presence of gang or “mara” members in these areas. For asylum seekers, the presence of individuals linked to the same gangs that were persecuting them, threatening them and/or attacking them in their home countries increases their perception of insecurity and can even form a real and imminent risk. Cristel recounted, for example, that on returning from sorting out some paperwork with the Mexican migration office one day, she recognized an individual in the street linked to the same gang that had blackmailed and threatened her in El Salvador. Because of this she stopped going out of the house unless absolutely necessary, for fear of being attacked or located.

> “They took my money, my clothes (…), they gave me nothing to eat, no water; they mistreated me, they told me, ‘Ignorant asshole, why were you born this way? Fucking asshole.’

Cristel (Salvadoran) interviewed in 2016.
**DETECTIONS**

Migration detention is another situation in which LGBTI asylum seekers are particularly exposed to abuses and violations of their human rights, including lack of effective access to their right to seek asylum and acts of gender-based violence and discrimination on the part of other detainees and the guards.

UNHCR has acknowledged that LGBTI people are often at risk during the time they spend in migration detention centres. This risk is greater for transgender women when they are held in cells reserved for men because there are no adequate policies or measures that take their individual and gender identity needs into account.

To this must be added the impact of the detention itself on asylum seekers, which only exacerbates their symptoms of depression, anxiety and the effects of post-traumatic stress. These symptoms are present in LGBTI asylum seekers due to the serious acts of violence they have suffered.

In Mexico, there are documented migrant detention centres that fail to meet the specific protection needs of LGBTI people; trans women in particular are mixed with others, or crowded into provisional cells that are temporarily allocated to them. In a report published in July 2017, the Citizens’ Council of the National Migration Institute (INM) of Mexico highlighted the fact that the different LGBTI people met and interviewed in the different centres “stated that they had suffered discrimination, sexual harassment and even aggression from other detainees or the centre staff.”

“Did you know you could claim asylum?”

‘No,’ I said. ‘What’s that?’

Carlos (hondureño), entrevistado en 2017.

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34 UNHCR. Protecting Persons with Diverse Sexual Orientations and Gender Identities, 2015, p. 28.


This report indicates that detainees are generally subjected to pressure and intimidation to accept so-called “voluntary return”, which denies them effective access to the right to seek asylum.\textsuperscript{38}

Amnesty International finds this situation concerning in that it may contribute to the increased vulnerability of LGBTI people detained for migration reasons, who are often unaware of their right to seek asylum. By subjecting them to pressure during their detention, in a context in which their rights as LGBTI people are not systematically guaranteed, they are exposed to deportation to their countries without the possibility of receiving the international protection they deserve\textsuperscript{39} and despite the fact that gender persecution is one of the causes established in Mexican legislation for recognizing refugee status.\textsuperscript{40}

Carlos indicates that he only found out about his right to seek asylum after being detained and taken to a holding centre in the south of Mexico. Once he became aware of this possibility, he said he wanted to begin the process as soon as possible, as it would enable him to escape the violence he had experienced in Honduras; however, in an attempt to demotivate him, the person dealing with his case warned him that it would mean remaining in detention for around three months. Two days later, Carlos was finally able to begin the process.

After several weeks, however, he became severely depressed and felt he would be unable to bear such difficult detention conditions. He was released after around a month’s detention due to being offered alternative methods to migration detention and so he was moved to a shelter.
Carlos is a 25-year-old gay man. Until March 2016 he was working in the patterns and prints department of a clothing manufacturer in his home country. Carlos had by this time already experienced humiliation, insults and rejection by his family for being gay from an early age.

He sometimes also received death threats from the gangs in the area in which he lived. But in March 2016 it was different. He was beaten by a group of gang members who insulted him and repeated their threats: if you don’t leave town immediately, you’ll end up dead. For fear of reprisals, Carlos decided not to report this attack but left his community and fled to San Pedro Sula —the second largest city in Honduras and one of the most dangerous places in the world.\(^1\)

Nonetheless, within a few weeks, the gangs had located him through their networks of informants. Carlos says they attacked him as he was leaving the job he had found in this new city. His fear was such that he initially decided simply not to leave the house; he even gave up work. But the gangs found out where he lived and went there to threaten him further.

Without a safe place to stay, Carlos had no option but to flee once more. This time he decided to leave the country. On 13 September 2016, without really knowing the route, he took several buses through Guatemala to the Mexican border.

Carlos recounts how he was detained by the INM in Mexico a few hours after crossing the border. He was taken to a holding centre where he was locked up day and night with others in a very small cell. He was only let out to collect his food, and then immediately returned to the cell to eat it. This same space included toilets and washing space, clothes had to be washed and hung out there, and they had to sleep on mats on the floor. In his words, “It was a truly horrible place.”

Carlos found out about his right to seek asylum for the first time while in detention, when he stated his reasons for not wanting to be deported back to Honduras. He wanted to begin asylum proceedings immediately but the person dealing with his case told him, in an attempt to put him off, that he would be held in these detention conditions for at least three months if he requested asylum. Determined, Carlos repeated his desire to start the process as soon as possible but says he was only allowed to do so two days later.

He states that after two weeks he felt desperate at the conditions in which he was being held, spending almost the whole day locked up and sleeping on a mat. However, he was informed that he could benefit from alternative measures to detention, implemented by the Mexican government with the support of UNHCR, and so he was finally able to leave and was moved to a migrant shelter.

Carlos says he tried to avoid leaving the shelter for fear of meeting gang members and other groups in the border town in which he was living. However, one day as he was walking along a path he was attacked by migrants who were aware of his sexual orientation. On this occasion, Carlos was also raped.

Carlos is still waiting for his asylum claim to be considered. The process has taken several months because the first decision he received - which refused him asylum - was declared null and void due to a number of irregularities.

“If there were more information about what an LGBTI community is, what it is to be gay, lesbian, what we suffer, if there were campaigns, more information for people, I believe there would be less ignorance towards us”

Carlos (Honduran), interviewed in 2017.
For her part, Cristel recounts her painful experience in a US migration detention centre. Feeling unsafe in Mexico after the abuse she had suffered, Cristel decided to travel to the United States, where she hoped to live according to her gender identity and without fear. She says that, on arriving at the US border, she was detained and subsequently taken to a detention centre where she was held for around three months.

She was detained all this time alongside men given that, in her words, the authorities did not take her gender identity into account, nor the vulnerability that this situation created for her. Cristel says she could not bear these terrible conditions and ended up accepting so-called “voluntary return” to El Salvador.

The situation described by Cristel concurs with the results of a report published in March 2016 by Human Rights Watch, which documents the multiple abuses and violations of human rights, including sexual aggression and harassment, suffered by trans women when detained in male units of US detention centres. Although the US ICE had issued guidelines intended to improve the detention conditions of trans women some months previously, these are reportedly suffering from implementation problems.

Trans women’s vulnerability is now being intensified by the prolonged periods asylum seekers are forced to spend in detention following the drastic reduction in alternative methods, exacerbated by the migration policies implemented by President Donald Trump.

“I was held in a US cell and it was horrible, so tense; you are discriminated against as well, they discriminate against you, they marginalize you (...) they put me in with all men, three and a half months, they never took account of my sexuality or that I was trans.”

Cristel (Salvadoran) interviewed in 2017.
DEPORTATION: SENT BACK TO HELL

For those unaware of their right to request asylum, or who are deprived of effective access to it, detention by the migration authorities is the start of a deportation process that will culminate in their return to their country of origin, directly back to the serious risks they were trying to escape.49

The evidence gathered by Amnesty International in this regard shows that Mexico and the United States are returning people who are fleeing violence to their countries of origin without being able to request asylum,50 which is in violation of the principle of non-refoulement (non-return)51 and places people in serious danger.

Amnesty International has furthermore documented that, despite the above, thousands of people are being deported to the countries of the Northern Triangle each year,52 where there are no comprehensive mechanisms that would enable those at risk to be identified or provided with the protection and care they need, and nor from an adequate gender perspective in the case of LGBTI people.53

Given the multiple dangers facing them on their return to their country, many people have no option but to flee for their life yet again, seeking safety either elsewhere within the country or going abroad once more. Some of the people interviewed by Amnesty International who had been deported to their country or had accepted so-called voluntary return indicated that their fear was so great on arriving back in their country of origin that, the very same day of their deportation, they had again taken a bus to cross the border.

Other people stayed several weeks or months in a different area or city of the country, seeking their own ways of surviving, until they were faced with further danger and fled once again, as was the case of Cristel. Because of the networks of informants gang members have around the country, they quickly found out that Cristel had returned and so she once more became the target of blackmail and threats, until she was forced to flee El Salvador again in search of protection.

40 ICE: Transgender Care Memorandum, June 2015.
51 People at risk in their own country have the right to receive international protection in another. The principle of non-refoulement (no return) enshrined in international law prevents a person from being sent back or returned to a country where they may run a real danger of suffering serious abuses or violations of their human rights.
52 UNHCR, Situación del triángulo Norte de Centroamérica (Situation of the Northern Triangle of Central America), 2017 Available at: www.acnur.org/fileadmin/scripts/doc.php?N=Fileadmin/Documents/BDL/2017/110401_pm nắng_ln_c=ivN4W7SfTf0JqfJ?q[jin Spanish only]
Cristel is 25 years old. This Salvadoran trans woman describes how her life changed in just a few hours one day in August 2014 when she received death threats from a gang in the area where she lived with her mother in El Salvador. She had been identified as trans, and they gave her 24 hours to get out, or they would kill her.

Cristel had suffered stigma and discrimination in her country for her gender identity in the past. She had also been blackmailed by gangs, but at no time had there been actual attacks on her life. Faced with this new threat, Cristel feared for her life and so grabbed two changes of clothing and took “the road North”, knowing nothing about the journey that awaited her. Cristel travelled by bus to the Mexican border and, like so many other undocumented migrants, crossed the Suchiate River in a raft.

Once across the border, Cristel recounts that she got a taxi to take her into Tapachula where she could rest before continuing her journey on to Mexico City. However, instead of taking her there, the supposed taxi driver took her to an unknown house where her belongings were taken from her and she was raped on several occasions by different people, and sexually exploited. Cristel recalls that she remained in captivity for several days in this house, along with K, another trans woman from El Salvador, until one night they managed to escape while their abductors were distracted.

The two women walked and walked until a car driver offered to help them and took them to the Specialist Prosecution Service for Crimes against Immigrants in Tapachula, where they were able to make a complaint. They were taken to a shelter for migrants, where Cristel was able to commence her recovery. Some weeks later, the INM granted her a humanitarian visa because she had been the victim of a serious crime in Mexico. Cristel indicated that she had not been informed of the progress made in the investigation that was opened after she reported the crime in Mexico.

The humanitarian visa she received allowed her to remain in Mexico for one year. She says she felt very unsafe in the country, however, and so she travelled to the United States with K. At the border, the two women handed themselves over to the US authorities and were taken to a migration detention centre. Cristel recounts that she was detained in the US for more than three months, in the men’s unit. She says that at no time did the authorities take her gender identity into account. This prolonged detention was extremely difficult for Cristel, who had been greatly affected by the abuse suffered in Mexico, and so she finally withdrew her asylum request and agreed to her “voluntary return” to El Salvador. Her friend K now lives in the United States.

On her return to El Salvador, Cristel set up home in a different area of the country. However, she had no option but to live in a neighbourhood that was also controlled by gangs. Through their information networks, the gang member that had threatened her previously became aware of her presence and began to blackmail her: she had to pay a tax plus so-called “rent” or they would kill her. Cristel says she was only able to pay the sums demanded for a few weeks, after which her family tried to obtain a loan to help her and avoid the threats being carried out.
But she again received death threats by phone and, at the start of 2017, was assaulted in the street by the same gang member. Cristel went to the Civil National Police to report the incident. Shortly afterwards, however, she says she saw police officers chatting with the gang member. More threats came over the following days: Cristel was given two weeks to quit the neighbourhood and not return to any area controlled by this gang. She says her boyfriend also received death threats and was murdered several weeks later as he was going to visit his family in an area controlled by a rival gang.

Cristel had no option but to flee to Mexico once more. Around the same time that Cristel travelled to Mexico, three trans women were murdered in El Salvador within a one-week period.\(^5^4\)

Cristel requested international protection in a border town in southern Mexico, living in constant fear of being attacked or abused once more, and restricting her movements to the strictly essential. Cristel recounts that, one day, on returning home, she recognized someone in the street linked to the gang that had blackmailed and threatened her in El Salvador, and this only resulted in yet further terror and anxiety on her part.

The stories of Camila, Carlos, Marbella and Cristel, along with other testimonies gathered by Amnesty International, bear witness to the multiple and repeated abuses and violations of human rights experienced by trans women and gay men both in their countries of origin and in their transit and/or destination countries, often motivated by their real or perceived sexual orientation and/or gender identity. When forced to flee to another country to escape the violence, instead of obtaining the immediate protection they require, LGBTI people often again experience abuses and violations of their rights similar to those suffered in their home countries. In other words, their vulnerability as migrant persons and asylum seeker is exacerbated by their Sexual orientation and/or gender identity.

This circle of constant violence and lack of protection is the result of the deep discrimination and stigma LGBTI people experience at different levels of society in these countries, linked to a lack of adequate and effective measures to guarantee their rights and a lack of knowledge of their particular protection needs.

States need to act to fully guarantee the rights of LGBTI people from the Northern Triangle of Central America. Amnesty International therefore recommends:

**STATEMENTS OF THE COUNTRIES OF THE NORTHERN TRIANGLE OF CENTRAL AMERICA:**

1. Adopt and implement prevention and awareness-raising policies aimed at promoting respect for the rights of LGBTI people and preventing all forms of violence against them, both in the domestic sphere and within public institutions.

2. Conduct exhaustive investigations into all crimes and human rights violations committed against LGBTI people with the aim of identifying, prosecuting and punishing those responsible. The different possible lines of investigation should include those aimed at determining whether the crimes were committed on the basis of the victim’s sexual orientation and/or gender identity.

3. Provide adequate medical and psychological care for LGBTI victims of violence.
4. Ensure that the official records of the different institutions responsible for providing care to LGBTI victims of violence have data collection systems that enable the gender identity and/or sexual orientation of individuals to be taken into consideration in order to quantify and analyse the violence to which they are subjected.

5. Improve coordination between consular services abroad and the reception centres in the countries to identify people with protection needs and guarantee that all reception, reintegration and protection programmes for deported migrants take into account the rights and specific needs of LGBTI people.

6. Assess the risk of deported or returning LGBTI people so that, in the face of high risk, a fast-track system can be activated in third countries to support asylum requests from those LGBTI people involved, as a protection measure.

1. Ensure that people receive information on their right to claim asylum and that they have effective access to this process, and refrain from deporting people at risk back to their country of origin.

2. Collect, systematize and produce data and records on violence against LGBTI asylum seekers or refugees persecuted on the basis of their real or perceived sexual orientation and/or gender identity.

3. Conduct exhaustive investigations with all due diligence for crimes and human rights violations committed against LGBTI people considering, among the possible lines of investigation, those aimed at determining whether the crimes were committed on the basis of the sexual orientation and/or gender identity of the victims.

4. Adopt or, where appropriate, continue to develop good practices related to the use of alternatives to migration detention for LGBTI people, based on an individualized assessment of the specific protection needs of each person that takes into account their sexual orientation and/or gender identity.

5. Put special mechanisms in place for vulnerable asylum seekers who may need to be urgently moved from border areas to other parts of the country while they await the results of their asylum procedure, with special emphasis on LGBTI communities.
Salvadorans, Guatemalans and Hondurans seeking asylum in Mexico based on their sexual orientation and/or gender identity.
Tab. 14
Mexico: Sexual orientation and gender identity (SOGI)
COI Compilation

May 2017

ACCORD is co-funded by the Asylum, Migration and Integration Fund, UNHCR and the Ministry of the Interior, Austria.
This report serves the specific purpose of collating legally relevant information on conditions in
countries of origin pertinent to the assessment of claims for asylum. It is not intended to be a
general report on human rights conditions. The report is prepared within a specified time frame
on the basis of publicly available documents as well as information provided by experts. All
sources are cited and fully referenced.

This report is not, and does not purport to be, either exhaustive with regard to conditions in the
country surveyed, or conclusive as to the merits of any particular claim to refugee status or
asylum. Every effort has been made to compile information from reliable sources; users should
refer to the full text of documents cited and assess the credibility, relevance and timeliness of
source material with reference to the specific research concerns arising from individual
applications.

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An electronic version of this report is available on www.ecoi.net.
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1 Relevant legislative framework

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), the world federation of national and local organisations advocating equal rights for lesbian, gay, bisexual, trans and intersex (LGBTI) people, states in its June 2016 State Sponsored Homophobia report that same-sex sexual acts in Mexico are legal and that the age of consent for same and different sex sexual acts is equal. In addition, ILGA mentions that in Mexico there exists a prohibition of discrimination in employment based on sexual orientation and a constitutional prohibition of discrimination based on sexual orientation. ILGA further reports that in the State of Coahuila (since 2005) and in the Federal District (since 2009) hate crimes based on sexual orientation are considered an aggravating circumstance and that the incitement to hatred based on sexual orientation is prohibited. (ILGA, June 2016, pp. 35, 38, 43, 45, 47, 49)

1.1 Marriage, other forms of legal recognition of long-term relationships, adopting or fostering children

1.1.1 Marriage

A New York Times (NYT) article published in June 2015 gives the following overview of developments concerning same-sex marriages in Mexico:

“In 2009, Mexico City, a federal district and large liberal island in this socially conservative country, legalized gay marriage - a first in Latin America. There have been 5,297 same-sex weddings here since then, some of them couples coming to the city from other states. Of the nation’s 31 states, only one, Coahuila, near the Texas border, has legalized gay marriage. A second state, Quintana Roo, where Cancun is, has allowed gay unions since 2012, when advocates pointed out that its civil code on marriage did not stipulate that couples be one man and one woman. In most of the rest of the country, marriage is legally defined as a union between a man and a woman - laws that may remain on the books despite the court’s decisions.

The Supreme Court upheld Mexico City’s law in 2010, adding that other states had to recognize marriages performed there. Advocates of gay marriage saw that as an opportunity to use the court’s rulings to assert that marriage laws in other states were discriminatory. The court - taking into account international decisions and anti-discrimination treaties that Mexico has signed - has steadily agreed, granting injunctions in individual cases permitting gay couples to marry in states where the laws forbid it.

A major turning point occurred this month when the court expanded on its rulings to issue a decree that any state law restricting marriage to heterosexuals is discriminatory. ‘As the purpose of matrimony is not procreation, there is no justified reason that the matrimonial union be heterosexual, nor that it be stated as between only a man and only a woman,’ the ruling said. ‘Such a statement turns out to be discriminatory in its mere expression.’

The ruling does not automatically strike down the state marriage laws. But it allows gay couples who are denied marriage rights in their states to seek injunctions from district judges, who are now obligated to grant them.
‘Without a doubt, gay marriage is legal everywhere,’ said Estefanía Vela Barba, an associate law professor at CIDE, a university in Mexico City. ‘If a same-sex couple comes along and the code says marriage is between a man and a woman and for the purposes of reproduction, the court says, ‘Ignore it, marriage is for two people.’ […]

Bureaucratic hurdles, and sometimes hostility, remain. Civil registry authorities abiding by state laws can still block couples hoping to marry. It is up to the couples to appeal to the courts, a process that can cost $1,000 or more and take months. […]

José Luis Caballero, a constitutional scholar who directs the law school at the Iberoamerican University in Mexico City, said that even though judges must now rule in favor of gay couples, full equality has yet to be reached. ‘What has to happen is that the state laws have to be reformed so that couples have the same rights and they don’t have to spend time and money,’ he said. ‘A couple with resources can get married. A couple without resources can’t.’” (NYT, 14 June 2015)

In an August 2015 query response about the situation and treatment of sexual minorities, particularly in Mexico City, Cancún, Guadalajara and Acapulco, the Immigration and Refugee Board of Canada (IRB) similarly mentions bureaucratic hurdles:

“The Supreme Court of Justice (Suprema Corte de Justicia de la Nación, SCJN) ruled on 3 June 2015 that [translation] ‘there is no constitutional reason to not recognize same-sex marriages’ (ibid. 4 June 2015). […] However, according to Alejandro Madrazo, a lawyer and investigator with Mexico City’s Center for Research and Teaching Economics (Centro de Investigacion y Docencia Economicas, CIDE), same-sex couples will continue facing challenges regarding marriage as civil registries [translation] ‘will continue rejecting applications for same-sex marriages and these couples will have to file an amparo with the associated costs and bureaucracy this process implies’ (qtd. in BBC 24 June 2015).” (IRB, 18 August 2015)

The abovementioned ruling of the Suprema Corte de Justicia de la Nación (SCJN, Supreme Court of Justice), which declares there being no constitutional reason not to recognize same-sex marriages can be accessed via the following link:


In April 2017 the gay American journalist Rex Wockner in his blog¹ provides the following explanation concerning legislation on same-sex marriages:

“The key thing to remember is that the 2015 ruling by the federal Supreme Court’s First Chamber created jurisprudence binding on all courts that any ban on same-sex marriage is unconstitutional. That’s why state legislatures are legalizing same-sex marriage now, why

¹ See ILGA, State Sponsored Homophobia, June 2016, p. 50.
some state and city governments have stopped enforcing bans, and why federal politicians, including Mexico’s president, have been looking to support same-sex marriage by changing federal laws and the federal Constitution. Because all bans eventually will be struck down anyway.

The jurisprudence says: ‘Marriage. The law of any federative entity that, on the one hand, considers that the end of it [marriage] is procreation and/or that defines it [marriage] as that which is celebrated between a man and a woman, is unconstitutional.’ (‘Matrimonio. La ley de cualquier entidad federativa que, por un lado, considere que la finalidad de aquél es la procreación y/o que lo defina como el que se celebra entre un hombre y una mujer, es inconstitucional.’)’ (Wockner, 4 April 2017)

The abovementioned ruling of the Suprema Corte de Justicia de la Nación (SCJN, Supreme Court of Justice), according to which restricting marriage to heterosexuals is unconstitutional, can be accessed via the following link:


http://sjf.scjn.gob.mx/SIFSem/Paginas/DetalleGeneralV2.aspx?Epoca=&Apendice=&Expression=&Dominio=Tesis%20Vernes%20%20de%20junio%201%20de%202015%20FEDERAL%20Y%201%20de%202015%20FEDERAL%202%010%20%20FEDERAL%20%20%20FEDERAL%20T_A_Ti=1&Orden=3&Clase=DetalleSemanarioBL&Tablero=&NumTE=11&Epoca=2015&Desde=100&Hasta=100&index=0&SemanaId=201525&Id=20094077&Hit=9&Ids=2009418,2009417,2009416,2009415,2009414,2009413,2009409,2009408,2009407,2009406,2009405&Epoca=100&Anio=100&Mes=100&SemanaId=201525&instancias=100&TATi=1

There is varying information concerning the number of states in Mexico where same-sex marriages are possible:

Rex Wockner elaborates in his April 2017 article as follows:

“As was the case in the U.S., Mexico’s legalization of same-sex marriage is proceeding state by state but unlike in the U.S., there is no possibility for a single ruling from the highest court that will overturn same-sex marriage bans nationwide. Even the Supreme Court of Justice of the Nation (SCJN) will have to go state by state.

Mexico has 31 states plus the federal entity Mexico City. Marriage equality has arrived in Mexico City and in 10 states -- via three different routes: Legislative legalization, a Supreme Court ruling, and state administrative decisions to stop enforcing their ban. Those states are:

- Campeche (legislative)
- Chihuahua (administrative)
- Coahuila (legislative)
- Colima (legislative)
- Guerrero (administrative; may not be statewide)
- Jalisco (SCJN ruling)
- Michoacán (legislative)
- Morelos (legislative)
- Nayarit (legislative)
- Quintana Roo (administrative)
- + Mexico City (legislative)

There are also cities that have stopped enforcing their state’s ban, including Santiago de Querétaro, capital of Querétaro state, and San Pedro Cholula in Puebla state.

Same-sex marriage also became possible everywhere else in Mexico following a June 3, 2015, ruling by the SCJN’s First Chamber, but only if a couple is able to jump through some hoops. The ruling declared that any law that defines marriage as ‘between a man and a woman’ is unconstitutional (and therefore is ultimately doomed) - and the declaration of unconstitutionality means that when any same-sex couple (or group of couples) goes to a federal judge and asks for an injunction (amparo) against the local civil registry allowing them to marry, the judge must grant it. The process works and couples use it, but it requires at least a month of time and up to $1,000 U.S. to pay a lawyer for help. […]

The states of Chiapas and Puebla also recently altered their marriage laws -- again not specifically having to do with marriage being between a man and a woman -- and made the same mistake or decision that Jalisco did. They mentioned in the revised law that marriage is man-woman. Lawsuits were quickly filed with the Supreme Court and are pending.” (Wockner, 4 April 2017)

Verne, an online publication of the Spanish newspaper El País that features popular topics trending on the internet, reports in a January 2017 article that only in eleven of the 32 Mexican states same-sex couples have the right to marry and do not need to seek injunctions. The list of 11 states matches the one given by Wockner, with one exception: instead of the State of Guerrero, Sonora is listed. (Verne, 13 January 2017)

An August 2016 article of the Economist newspaper notes the following:

“Three of Mexico’s 32 states (Michoacán, Colima and Morelos) have recently passed laws permitting gay marriage, joining Mexico City, Campeche, Coahuila and Nayarit in a liberal group of seven. Four more allow gay marriage but have not passed laws sanctioning it.

In the 21 states that still forbid it, couples can now defy local laws by going to court; under the supreme court’s ruling, judges are obliged to give them permission to marry.” (The Economist, 18 August 2016)

In its annual report published in January 2017 Human Rights Watch (HRW) states that since the legalisation of same-sex marriage in Mexico City in 2010 nine further states have legalised it. (HRW, 12 January 2017)
Amnesty International (AI) in its Report 2016/17, which covers the year 2016, mentions two constitutional reforms proposed by President Peña Nieto in May 2016:

“Rights of lesbian, gay, bisexual, transgender and intersex people

In May, President Peña Nieto presented two draft bills to Congress to reform the Constitution and the Federal Civil Code. The proposed constitutional reform to expressly guarantee the right to marry without discrimination was rejected by Congress in November.

The second proposed reform to the Civil Code would prohibit discrimination on grounds of sexual orientation and gender identity in allowing couples to marry and people to adopt children; the reform also included the right of transgender people to have their gender identity recognized by Mexico. The bill had yet to be discussed in Congress.

In September, Supreme Court jurisprudence upholding same-sex couples’ rights to marry and adopt children without being discriminated against on the basis of sexual orientation and gender identity became binding on all judges in the country.” (AI, 22 February 2017)

In an interview with the online newspaper Actuall, which advocates the values of life, family and liberty, Fernando Guzmán Pérez Peláez of the movement Mexican National Front for the Family explains similarly that the abovementioned second proposed reform to the Civil Code, which would allow same-sex couples to adopt children, has not been discussed yet. (Actuall, 17 November 2016)

In its 2017 annual report, HRW also mentions a bill to legalize same-sex marriage proposed by the Mexican president in May 2016 which was rejected in November of the same year. (HRW, 12 January 2017)

A joint report by The Cornell Law School LGBT Clinic, which advocates the legal rights of LGBT people and provides free legal help to low-income LGBT individuals and the Transgender Law Center, an Oakland-based organisation that advances the rights of transgender and gender nonconforming people, published in May 2016 gives an overview of the development of the legal situation specifically in Mexico City:

“In 2006, Mexico City’s legislature approved the ‘Ley de Sociedades de Convivencia’ (Law Regarding Cohabitation Partnerships) which allowed civil unions between same-sex couples. On December 21, 2009, the Legislative Assembly approved legislation allowing same-sex marriage in Mexico City. The bill changed the definition of marriage in the city’s Civil Code from ‘a free union between a man and a woman’ to ‘a free union between two people.’ The law also allows same-sex couples to adopt children, apply jointly for bank loans, inherit from one another, and be included in spousal insurance policies. In August 2010, the Mexican Supreme Court held that same-sex marriages registered in Mexico City must be recognized in all of Mexico.” (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 11)
In February 2017, the news agency Associated Press (AP) reports that the government of Mexico City presented the city’s first constitution which ensures gay rights and comes into effect in 2018 (AP, 5 February 2017).

Paragraph H section 1 of article 11 of the new constitution of Mexico City protects the rights of LGBT persons in order for them to lead a life free of violence and discrimination. Paragraph H section 2 determines that families formed by LGBTI-couples who live in a civil marriage, concubinage or another civil union are accorded the same rights as families formed by heterosexual couples, regardless of whether the LGBTI-couples have children or not. Section 3 stipulates that the authorities shall put in place public policies and undertake the necessary steps in order to eradicate exclusionary or discriminatory behaviour or attitude based on sexual orientation, sexual preference, gender identity, gender expression or sexual characteristics: “Artículo 11 Ciudad incluyente […]”

H. Derechos de las personas LGBTTTI

1. Esta Constitución reconoce y protege los derechos de las personas lesbianas, gays, bisexuals, transgénero, travesti, transexuales e intersexuales, para tener una vida libre de violencia y discriminación.

2. Se reconoce en igualdad de derechos a las familias formadas por parejas de personas LGBTTTI, con o sin hijas e hijos, que estén bajo la figura de matrimonio civil, concubinato o alguna otra unión civil.

3. Las autoridades establecerán políticas públicas y adoptarán las medidas necesarias para la atención y erradicación de conductas y actitudes de exclusión o discriminación por orientación sexual, preferencia sexual, identidad de género, expresión de género o características sexuales.” (Constitución Política de la Ciudad de México, 5 February 2017)

The new constitution of Mexico City can be accessed via the following link:
- Constitución Política de la Ciudad de México, 5 February 2017

1.1.2 Adoption

A 2014 report of several NGOs and alliances on human rights violations against LGBT people in Mexico states that “[i]n 2010, Mexico City again amended its Civil Code to allow same-sex marriage and adoption of children by same-sex couples” (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, p. 4)

The US-based non-governmental organization Freedom House in its January 2016 annual report on political rights and civil liberties in 2015 mentions that in August 2015, the Supreme Court “extended protections to include adoption of minors by same-sex couples”. (Freedom House, 27 January 2016)

The journalist Rex Wockner states:
“On the eve of the Mexico City march [in September 2016], the Supreme Court issued jurisprudence binding on all courts securing adoption rights for same-sex couples nationwide. It says: ‘ADOPTION. The best interest of the minor is based on the suitability of the adopters, within which are irrelevant the type of family into which [the minor] will be integrated, as well as the sexual orientation or civil status of [the adopters].’ (‘Adopción. El interés superior del menor de edad se basa en la idoneidad de los adoptantes, dentro de la cual son irrelevantes el tipo de familia al que aquél será integrado, así como la orientación sexual o el estado civil de éstos.’)” (Wockner, 4 April 2017)

The mentioned ruling of the Supreme Court can be accessed via the following link:

In an article published in January 2017 Letra S, Sida, Cultura y Vida Cotidiana, A.C (in the following Letra S), a Mexican non-profit organisation that promotes human rights for sexual minorities and raises awareness about HIV/AIDS and sexual health, reports that Mexico’s Supreme Court issued a ruling on the right of same-sex couples to family life. This ruling is said to have been issued after having analysed similar decisions of international courts regarding the recognition of the rights of same-sex couples and having considered the ruling of the European Court of Justice which concluded that ‘homosexual and heterosexual couples are similarly capable of having a family life’. The Mexican Supreme Court specifies further that the family life of a same-sex couple is not limited to living as a couple but can also extend to include procreation and the raising of children. Letra S points out that prior to this conclusion the Supreme Court had already issued five specific rulings between 2012 and 2015 in favour of same-sex couples from different parts of the Republic wanting to start a family either by means of adoption or assisted reproductive technology. Letra S explains that based on that ruling the wishes of same-sex couples to form families with children can’t be restricted by any authority. This also includes civil registries, which must issue documentation to such an adopted minor without any objection:

“Tras analizar las resoluciones de otras cortes a nivel internacional en materia de reconocimiento de derechos a las parejas del mismo sexo y observar que organismos como el Tribunal Europeo de Derechos Humanos han concluido que existe una ‘similitud entre las parejas homosexuales y heterosexuales en cuanto a su capacidad de desarrollar una vida familiar’, la Primera Sala de la Suprema Corte de Justicia de la Nación emitió la tesis jurisprudencial 08/2017 titulada ‘derecho a la vida familiar de las parejas del mismo sexo’. […]

Publicada el pasado 27 de enero y con vigencia a partir de este lunes, el documento señala que a partir de las consideraciones del Tribunal Europeo sobre ‘la similitud entre las parejas homosexuales y heterosexuales en cuanto a su capacidad de desarrollar una vida familiar’, la Corte ‘entiende que la vida familiar entre personas del mismo sexo no se limita
únicamente a la vida en pareja, sino que puede extenderse a la procreación y a la crianza de niños y niñas según la decisión de los padres’. […]

Para llegar a dicha conclusión, el órgano judicial recordó que ha emitido cinco sentencias a favor de parejas del mismo sexo, de diferentes partes de la República Mexicana, que deseaban conformar una familia, ya sea mediante la adopción de un menor o el acceso a tratamientos de reproducción asistida, entre los años 2012 y 2015.

De esta manera, aquellas parejas del mismo sexo que deseen conformar una familia con hijos o hijas no podrán verse limitadas de esa posibilidad ante ninguna instancia, incluidos los registros civiles, que deben de otorgarles la papelería de dicho menor sin interponer alguna objeción o argumentar su imposibilidad para hacerlo.” (Letra S, Sida, Cultura y Vida Cotidiana, A.C, 30 January 2017)

The mentioned Supreme Court ruling of 18 January 2017 states that the family life of same-sex couples is not limited to the life as a couple, but can extend to procreation and raising of children. That means that there are same-sex couples who form families with children born or adopted by one of them, or couples who use scientific means to procreate:

“A partir de las consideraciones del Tribunal Europeo de Derechos Humanos sobre la similitud entre las parejas homosexuales y heterosexuales en cuanto a su capacidad de desarrollar una vida familiar, la Primera Sala de esta Suprema Corte de Justicia de la Nación entiende que la vida familiar entre personas del mismo sexo no se limita únicamente a la vida en pareja, sino que puede extenderse a la procreación y a la crianza de niños y niñas según la decisión de los padres. Así, existen parejas del mismo sexo que hacen vida familiar con niños y niñas procreados o adoptados por alguno de ellos, o parejas que utilizan los medios derivados de los avances científicos para procrear.” (SCJN, 18 January 2017)

1.1.3 **Pensions, social insurance, etc.**

A 2013 Mexico/ Mexico City – SOGI legislation Country Report written by students of the International Human Rights program at the University of Toronto Faculty of Law refers to social benefits for LGBT people:

“Federal Law of Social Security, 2012: Describes ‘beneficiaries’ in gender-neutral terms making it possible for same-sex spouses or partners to claim the same social benefits recognitions as those of married or common law opposite-sex couples.

Article 5A (XII) - Beneficiaries: the spouse of the insured or pensioner and in their absence, the civil partner, as well as the ascendants and descendants of the insured or pensioner which are identified in the Law.” (International Human Rights program at the University of Toronto Faculty of Law, March 2013, p. 7)

The above-cited text of article 5A (XII) has not been changed since. The Federal Law of Social Security as amended on 12 November 2015 can be accessed via the following link:

- [Ley del seguro social, 21 December 1995, with amendments up to 12 November 2015](http://www.ordenjuridico.gob.mx/Documentos/Federal/pdf/wo9056.pdf)
A Policy Research Working Paper published by the World Bank Group in March 2017 provides the following information:

“The case of Mexico is particularly interesting. First, Mexico has a comprehensive constitutional framework that covers economic and social rights. Also, its Federal Law to Prevent and Eliminate Discrimination prohibits discrimination in obtaining those services for religious minorities, ethnic minorities, and LGBTI persons. In addition, Mexican laws on social security, health, housing, water, electricity, and financial services all contain an article that prohibits discrimination in the provision of the respective services.” (World Bank Group, 3 March 2017, p. 25)

The June 2014 report by the NGO Letra S on human rights violations against LGBT people in Mexico notes:

“Although the Mexican Social Security Institute (IMSS) issued a press release on 17 February 2014 stating that it would extend social security benefits to same-sex married couples, in practice, same-sex married couples continue to experience difficulties in registering their spouses for social security benefits. The same difficulties are encountered with respect to spousal benefits under programs administered by the Institute for Social Security and Services for State Workers (ISSSTE). The problems appear to stem from lack of appropriate training for IMSS and ISSSTE employees. An additional problem is that the IMSS law, as written, continues to describe eligibility for benefits using language applicable only to opposite-sex couples (i.e., ‘the wife of the insured man’ or the ‘husband of the insured woman’), thus appearing to exclude benefits for same-sex couples.” (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, pp. 2-3)

The British daily newspaper The Guardian in a December 2016 article recounts the experience of a woman who was in a same-sex marriage and after the death of her spouse was confronted with obstacles to processing her wife’s pension. First she was told by officials that no marriage licence existed, although the couple had officially married in September 2016. When she finally received a copy “due to extraordinary circumstances”, the officials claimed that she needed to have been married for at least a year in order to receive the pension. Unlike in the case of heterosexuals, the time the woman and her wife lived together did not count, according to officials. The article mentions “a string of cases” like the one described and goes on to say that these cases “suggest that rights for gay people are still treated as exceptions to be granted at the discretion of local officials”. (The Guardian, 19 December 2016)

1.2 Legal recognition of gender identity (e.g issuance of identity documents)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center mentions the following concerning Mexico City:

“Mexico City has created some avenues for transgender people to conform their identity documents to their gender identity. In 2004, Mexico City amended its Civil Code to permit an individual to change the name and gender marker on their birth certificate. Specifically, the Mexico City Civil Code was amended to allow modification of a person’s birth certificate ‘upon request to change a name or any other essential data affecting a person’s civil status, filiations, nationality, sex and identity.’ In 2014, Mexico City also passed a law that permits
transgender individuals to legally change their gender without a court order. [...] Only Mexico City has an antidiscrimination law that explicitly protects against gender identity discrimination. Other protections that exist exclusively in Mexico City include name changes, legal recognition of gender changes, and specialized healthcare for transgender people.” (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 12)

In its March 2017 human rights report covering the year 2016, the US Department of State (USDOS) mentions that “[t]ransgender persons may change their gender marker on identity documents only in Mexico City”. (USDOS, 3 March 2017, section 6)

A December 2016 report written by several NGOs and alliances deals with discrimination due to gender identity and sex characteristics in Mexico and provides the following information:

“In Mexico, one can only change the name and sex in the identity documents in Mexico City, thanks to the reforms that were introduced to article 135bis of the Civil Code of Mexico City. These reforms were approved by the local congress in November 2014 and entered into force on February 5, 2015 when it was published in the Boletín Oficial.

These legal reforms introduced is a significant step forward from the previous law. Currently, adults (persons over 18 years old) who want to modify their name and sex marker are not required to undergo medical interventions or to have a medical certificate or to have filed prior legal motions. Under the current law, it is a simple administrative proceeding, for which only applicants need to present a certified copy of the birth certificate, an official identity document and proof of residence.

However, it is important to highlight that this law only applies to people who reside in Mexico City, which excludes the majority of trans Mexican people who live in other states of the country. It also excludes people who, due to a variety of reasons, cannot provide proof of residence. For example, trans people who come to Mexico City from other parts of the country and who can only have access to working in the informal sector, such as sex work, live in precarious conditions in Mexico City.

Another problem arises in the case of people who currently reside in Mexico City, but who come from other states, since in many cases the local authorities that issued the original birth certificate refuse to authorize that the Civil Registry of the City of Mexico issues a new birth certificate with the new name and sex marker.” (Hombres XX et al., December 2016, p. 2)

1.3 Anti-discrimination provisions

The June 2014 NGO report on human rights violations against LGBT people in Mexico explains:

“In 2011, Mexico amended its Constitution to prohibit discrimination on the basis of ‘sexual preference.’ Several years earlier, in 2003, Mexico passed the Federal Law to Prevent and Eliminate Discrimination. This law, which remains in force, prohibits public and private sector discrimination based on various characteristics including ‘sexual preference,’ and it explicitly characterizes homophobia as a form of discrimination. The law established a National Council for the Prevention of Discrimination (CONAPRED) as a department within
the Mexican Secretariat of the Interior, and assigned CONAPRED various responsibilities related to combating discrimination.” (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, pp. 3-4)

Article 1 of the 1917 Political Constitution of the United Mexican States (Constitución Política de los Estados Unidos Mexicanos, with amendments up to 24 February 2017) prohibits any form of discrimination based on sexual orientation:

“Artículo 1o. […]
Queda prohibida toda discriminación motivada por origen étnico o nacional, el género, la edad, las discapacidades, la condición social, las condiciones de salud, la religión, las opiniones, las preferencias sexuales, el estado civil o cualquier otra que atente contra la dignidad humana y tenga por objeto anular o menoscabar los derechos y libertades de las personas.” (Constitución Política De Los Estados Unidos Mexicanos, 5 February 1917)

Article 1 section III of the Federal Law to Prevent and Eliminate Discrimination (Ley Federal para Prevenir y Eliminar la Discriminación, enacted in 2003, with amendments up to 1 December 2016) protects against discrimination based on sexual orientation. The same section lists homophobia as a form of discrimination: “Discrimination: For the purpose of this law, discrimination will be considered as being any intentional or non-intentional distinction, exclusion, restriction or preferential treatment (by any act or failure to act), which is neither objective, rational or proportional and aims to or results in the obstruction, limitation, prevention, undermining or nullification of the recognition, enjoyment or exercise of human rights and liberties, when it is based on one or several of the following motives: ethnic or national origin, colour of skin, culture, sex, gender, age, disabilities, social or economic background, health, legal status, religion, physical appearance, genetic characteristics, immigration status, pregnancy, language, opinions, sexual preferences, political identity or affiliation, marital status, family situation, family responsibilities, use of language, criminal record or any other motive. Homophobia, misogyny, any expression of xenophobia, racial segregation, antisemitism, racial discrimination and other related forms of intolerance are also regarded as discriminatory”. (Ley Federal para Prevenir y Eliminar la Discriminación, 11 June 2003, Article 1 section III, unofficial translation):

“Discriminación: Para los efectos de esta ley se entenderá por discriminación toda distinción, exclusión, restricción o preferencia que, por acción u omisión, con intención o sin ella, no sea objetiva, racional ni proporcional y tenga por objeto o resultado obstaculizar, restringir, impedir, menoscabar o anular el reconocimiento, goce o ejercicio de los derechos humanos y libertades, cuando se base en uno o más de los siguientes motivos: el origen étnico o nacional, el color de piel, la cultura, el sexo, el género, la edad, las discapacidades, la condición social, económica, de salud o jurídica, la religión, la apariencia física, las características genéticas, la situación migratoria, el embarazo, la lengua, las opiniones, las preferencias sexuales, la identidad o filiación política, el estado civil, la situación familiar, las responsabilidades familiares, el idioma, los antecedentes penales o cualquier otro motivo;
También se entenderá como discriminación la homofobia, misoginia, cualquier manifestación de xenofobia, segregación racial, antisemitismo, así como la discriminación racial y otras formas conexas de intolerancia;” (Ley Federal para Prevenir yEliminar la Discriminación, 11 June 2003, Article 1 section III)

Besides, Article 9 considers, among others, the following acts as a form of discrimination as defined in Article 1 section III of the same law: “The act or promotion of physical, sexual, psychological, property-related or economic violence on the basis of age, gender, disability, physical appearance, way of dressing, speaking or gesturing, publicly acknowledging one’s sexual preference or any other motive for discrimination” (Ley Federal para Prevenir y Eliminar la Discriminación, 11 June 2003, Article 9, unofficial translation):

“Con base en lo establecido en el artículo primero constitucional y el artículo 1, párgrafo segundo, fracción III de esta Ley se consideran como discriminación, entre otras: [...]” (Ley Federal para Prevenir y Eliminar la Discriminación, 11 June 2003, Article 9)

The United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Christof Heyns, analyses in a May 2016 report to the Human Rights Council (HRC) the progress made by Mexico following his mission there in 2013. He refers to a government reply according to which the Federal Act for the Prevention and Elimination of Discrimination has been reformed in 2014 to include “homophobia and violence against individuals based on their sexual orientation” and that “[f]ifteen federal entities had adopted constitutional provisions prohibiting discrimination on these grounds”. (HRC, 6 May 2016, p. 19)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center however specifies that there are “no federal laws that explicitly protect transgender individuals from discrimination on the basis of their gender identity (i.e., their transgender status) as opposed to sexual orientation”. (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 10)

The 2013 Mexico/ Mexico City – SOGi legislation Country Report written by students of the International Human Rights program at the University of Toronto Faculty of Law mentions that “in 2012, the Federal government eliminated a ban on blood donations of gay and bisexual men” (International Human Rights program at the University of Toronto Faculty of Law, March 2013, p. 1).

The June 2014 NGO report on human rights violations against LGBT people in Mexico gives the following overview of the legal situation in Mexico City:

“Within Mexico, Mexico City (Federal District) has taken the lead in enacting laws and taking measures to protect the rights of the LGBTI population. Mexico City has enacted general antidiscrimination legislation which goes beyond the federal law by prohibiting
public and private sector discrimination on the basis of gender identity, as well as on the basis of sexual orientation. This law created an agency, the Council for the Prevention and Elimination of Discrimination in Mexico City (COPRED), which has the authority to take and resolve complaints of public and private sector discrimination that occur within the Federal District. The Criminal Code of the Federal District includes a hate crimes provision, under which crimes committed on the basis of the victim’s sexual orientation or gender identity are considered hate crimes. [...] In 2011, the government of the Federal District opened the Community Center on Sexual Diversity which has provided health and legal services to the LGBTI community. In 2012, the Federal District Attorney General issued a directive that provides instructions on effectively processing cases of crimes committed on the basis of the victim’s sexual orientation and gender identity.” (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, p. 4)

In its human rights report covering the year 2016, the USDOS writes that “[t]he law prohibits discrimination based on sexual orientation, but only in Mexico City does it prohibit discrimination based on gender identity.” The USDOS report states furthermore that “[i]n Mexico City the law criminalizes hate crimes based on sexual orientation and gender identity.” (USDOS, 3 March 2017, section 6)

1.4 Anti-hate speech provisions

The World Bank Group provides the following information in its Policy Research Working Paper published in March 2017:

“Mexico criminalizes hate speech but does not provide for autonomous hate crime legislation at the federal level. Article 138(VIII) of the Penal Code of Mexico City, however, considers ‘hate’ an aggravating circumstance that augments the punishment of the ‘base crimes’ of homicide and bodily harm or injuries. Interestingly, this code provides that ‘hate’ includes the religious and ethnic origin of the victim, but it also expressly mentions sexual orientation and gender identity as characteristics that constitute a bias when committing the crimes of homicide or bodily harm or injuries.” (World Bank Group, 3 March 2017, p. 27)

In a short overview of, among others, hate crime legislation in different countries, the same report indicates, however, that in Mexico there is no such legislation. The report, in contradiction to the above cited explanation, states that the federal law neither criminalises hate speech nor hate crimes. The report in this context mentions article 149 Ter of the Federal Criminal Code of Mexico which refers to discrimination. (World Bank Group, 3 March 2017, p. 48)

The Federal Criminal Code of Mexico as amended on 7 April 2017 can be accessed via the following link:
• Código Penal Federal, 14 August 1931, with amendments up to 7 April 2017
  http://www.diputados.gob.mx/LeyesBiblio/pdf/9_070417.pdf

An English translation of the above mentioned Article 149 Ter can be found in the following book:
Defensor, the monthly human rights journal of the Human Rights Commission of the Federal District, dedicates its February 2017 issue to the subject “hate speech, power and human rights”. In an overview of laws against hate speech on the national and international level the journal points out that article 1 of the Political Constitution of the United Mexican States prohibits any form of discrimination on grounds of ethnic or national origin, gender, age, disabilities, social status, standard of health, religion, opinions, sexual preferences, marital status or any other form of discrimination that constitutes an attack on human dignity and is intended to nullify or undermine the rights and freedoms of individuals. The journal further mentions that according to article 9 (XV) of the Federal Law to Prevent and Eliminate Discrimination the promotion of hate and violence by messages and images in the media and according to article 9(XXVII) the incitement of hatred, violence, rejection, mockery, insult, persecution or exclusion are considered forms of discrimination. Concerning the local level the journal refers to the Criminal Code of the Federal District. (Human Rights Commission of the Federal District, February 2017, p. 32)

The March 2013 Mexico/ Mexico City – SOGI legislation Country Report written by students of the International Human Rights program at the University of Toronto Faculty of Law notes:

“On March 6, 2013 the Supreme Court of Justice determined that homophobic expressions such as ‘maricones’ or ‘puñal’ are discriminatory, constitute hate speech, and are not protected by freedom of expression laws. The Supreme Court determined that homophobic expressions constitute discriminatory statements even if they are expressed jokingly, since they can be used to encourage, promote, and justify intolerance against gays (Amparo directo en revision 2806/2012, March 6, 2013, Suprema Corte de Justicia de la Nación).” (International Human Rights program at the University of Toronto Faculty of Law, March 2013, p. 1)

A March 2013 article by the UK-based LGBT news site Pink News contains similar information:

“The top court in Mexico has ruled that two words, both anti-gay slurs which are commonly used in the country, are hate speech, and therefore should not be protected as freedom of speech under the constitution. The ruling by the Supreme Court could mean that those offended by the use of the words could sue for moral damages.

Magistrates voted 3-2 on Wednesday evening, supporting a claim by a journalist from Puebla, who sued a reporter from a different publication who had referred to him as a ‘puñal’, and other people at his newspaper as ‘maricones’. Both of the words in question roughly translate into the word ‘faggot’ in English, reports the Associated Press.
The ruling by the majority of the magistrates meant that both words were deemed discriminatory and offensive. Their ruling said: ‘Even though they are deeply rooted expressions in Mexican society, the fact is that the practices of the majority of society can’t validate the violations of basic right.” (Pink News, 8 March 2013)

The mentioned ruling of the Supreme Court of 6 March 2013 can be accessed via the following link:
- SCJN - Suprema Corte de Justicia de la Nación: Amparo directo en revisión 2806/2012, 6 March 2013

1.5 Laws not explicitly relating to individuals of diverse SOGI being used in a discriminatory manner

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center provides the following information on morality laws in Mexico:

“The some Mexican communities have explicitly targeted transgender women by enacting morality laws that criminalize ‘cross-dressing.’ In 2002, the city of Tecate, Mexico amended its Police and Good Governance Code to prohibit ‘men dressed as women in public spaces.’ This revision ‘was coded in terms of infractions against morality.’ Upon passing the law, the mayor of Tecate stated that Town Hall officials and the majority of the population supported it. A coalition across the political spectrum spoke out in favor of the morality law.

Supporters stated that Tecate’s prohibition of gender nonconformity was needed to protect against social disturbance; they regarded ‘cross-dressing’ as a threat to order, morality, harmony, mutual respect, and children. They implied transgender women were pedophiles. In explaining his support for the law, counsel advisor José Luis Rojo claimed that transgender women disrupt the public peace and ‘take advantage of children.’ A senior councilman, Cozme Casares, added that he and others supported the measure because they believed it would prevent the spread of AIDS and sex work.

Local transgender women reported a dramatic increase in police harassment following the law’s passage. A woman named Gabriela reported that a police officer had ‘pulled [her] out of the doorway of a pool hall by her hair.’ Transgender women were frequently accused of being involved in sex work, even when they were simply running errands like going to buy milk. Transgender women stopped by the police frequently faced extortion; ‘[t]he police used... the threat of arrest... to secure money or sexual favors from [transgender women].’ The passage of morality laws like those in Tecate criminalizes transgender women and sanctions police harassment and private discrimination. The passage and retention of these laws reflect continued societal hostility towards transgender people.”
(Cornell Law School LGBT Clinic; Transgender Law Center, May 2016, pp. 12-13)

The abovementioned provisions of the city of Tecate, which prohibit men dressed as women in public spaces, can be found in article 34 of the 2002 Police and Good Governance Code of
Tecate, Baja California (Bando de Policía y Gobierno para el Municipio de Tecate, Baja California, 25 October 2002). However, in the current 2010 Police and Good Governance Code of Tecate with amendments up to 24 April 2015 no such paragraph exists (Bando de Policía y Gobierno para el Municipio de Tecate, Baja California, 20 August 2010, with amendments up to 24 April 2015).

The Inter-American Commission on Human Rights (IACHR), an autonomous organ of the Organization of American States that promotes and protects human rights in the American hemisphere describes in a November 2015 report on violence against LGBT persons in the Americas the following situation providing information concerning, among other states, Mexico:

“The UN Committee against Torture has stated, speaking in regard to LGBT persons, that the rules on public morals can grant the police and judges discretionary power which, combined with prejudices and discriminatory attitudes, can lead to abuses against them. Some of these provisions are explicit in national criminal legislation, but they can also be found in local and/or provincial laws, and in police regulations. These laws are criticized for, among other things, their vague language. Vague definitions of outlawed conduct open the door to arbitrary application and enforcement with respect to persons who are seen as defying socially established gender norms, particularly trans persons. There is evidence that law enforcement authorities have repeatedly used such laws to harass and persecute LGBT persons, especially trans sex workers.” (IACHR, 12 November 2015, p. 65)

“Same-sex couples showing public displays of affection are also a frequent target of police abuse and arbitrary detention by state agents – often with excessive use of force or verbal abuse – because of what is considered ‘immoral behavior’ in public spaces.” (IACHR, 12 November 2015, pp. 79-80)

According to footnote 229 of the report, one such vague provision in provincial law can be found in the Penal Code of the State of Jalisco which criminalises among others “acts against public morals, for example “obscene exhibitions”. (IACHR, 12 November 2015, p. 65, footnote 229)

The cited Criminal Code of Jalisco State which in article 135 mentions obscene exhibitions as an act against public morals can be accessed via the following link:
- Código Penal para el Estado libre y soberano de Jalisco, 2 August 1982, with amendments up to 1 December 2015

Frontera, a Mexican tabloid newspaper, reports in a November 2016 article in its online version that in Ensenada, Baja California, a group of transgender persons peacefully demonstrated against the killings of transsexuals in Baja California. Furthermore, they claimed to be constantly abused by the municipal police. The president of the council for the protection of the right to sexual diversity stated that they constantly receive complaints of abuse of trans women who are sex workers. Police detain them and extort their money while making recourse to the Police
and Good Governance Code which contains an article that prohibits a person from being disguised or dressed up in public:

“Ensenada, Baja California: Un grupo de personas transgénero realizaron una marcha pacífica para manifestar su inconformidad ante las muertes de personas transexuales en el Estado y reclamaron que constantemente sufren abusos por parte de la policía municipal. [...] 

La Presidenta del Consejo para la Protección de los Derechos de la Diversidad Sexual (Cpdds), Lizeth Dueñas Pérez comentó que constantemente reciben quejas de abusos a chicas trans que son sexservidoras y que están registradas y cuentan con tarjeta del sector salud.

‘Van los policías, las detienen y les quiten su dinero escudándose en el bando de policía y buen gobierno porque hay un artículo que dice que no se puede circular en la vía pública disfrazado, pero los policías no entienden que ellas son chicas trans y las agarran como si estuvieran disfrazadas’, explicó.” (Frontera, 10 November 2016)
2 Treatment of individuals of diverse SOGI by state actors

In its query response about the situation and treatment of sexual minorities, particularly in Mexico City, Cancún, Guadalajara, and Acapulco of August 2015, the Immigration and Refugee Board of Canada (IRB) writes:

“A report on crimes against transgendered women sent to the Research Directorate by a representative at the Support Centre for Transgender Identities (Centro de Apoyo a las Identidades Trans, CAIT), an NGO that advocates for the rights of transgendered women in Mexico (CAIT n.d.), indicates that transgendered women are discriminated against by the police and judicial authorities (ibid. Feb. 2013). The representative from Colectivo León Gay, A.C. indicated that LGBT persons are [translation] ‘frequently’ harassed and arbitrarily detained due to their physical appearance, the way they dress, or for expressing affection in public (Colectivo León Gay, A.C. 10 July 2015). The representative also indicated that they are barred from assembling in public because they are seen as ‘engaging in prostitution or giving a ‘bad example’ or ‘bad image’ to society’ (ibid.).

According to the Colectivo León Gay, A.C. representative, officials from the Public Ministry often mistreat LGBT persons and refuse to open investigation for crimes against them (ibid.). In correspondence with the Research Directorate, a representative from Queer Investigations (Investigaciones Queer, A.C.), a civil society organization that advocates for the rights of LGBT persons in Mexico (Investigaciones Queer, A.C. n.d.), indicated that despite the training provided to judicial authorities on sexual diversity, [translation] ‘there is still a lot of intimidation and threats against the LGBT population due to what they perceive as ‘faults against morals,’ which are used to extort members of the LGBT community’ (ibid. 10 July 2015).” (IRB, 18 August 2015)

The IACHR in the above-cited November 2015 report on violence against LGBT persons in the Americas describes the situation in Mexico in the following terms providing some concrete examples:

“In January 2013, two police officers were arrested in connection with the kidnapping, torture and execution of a young gay couple. The incident apparently originated with a quarrel between two young men, aged 17 and 22, in Mexico City. After they were both expelled from a nightclub, a police patrol car and other cars arrived and police agents violently pushed them into a white vehicle that was escorting the patrol car. The bodies of the two men were found the following day with numerous signs of beatings in various parts of the body (some of which were so brutal they left bones uncovered), their hands and feet strongly tied with wire, their ears amputated, and with three gunshot wounds in the head of each man. Surveillance cameras showed that the vehicles that were used to apprehend the men outside the nightclub drove to the vicinity of the place in which the bodies were found.

The IACHR has noted that for the majority of cases of violence against LGBT persons recorded in the Registry of Violence covering the time period of January 2013 to March 2014, there is little or no data as to the perpetrators of the violence, particularly in the cases of killings. Notwithstanding this, during that fifteen-month period, the IACHR
received information of alleged executions by state agents of a 15-year-old boy in Patu, Brazil, a 40-year-old trans woman in Mexico City, and the aforementioned two gay men aged 17 and 22 in Mexico City.” (IACHR, 12 November 2015, p. 82)

“In Mexico City, a young man was allegedly arrested by federal police officers while he was walking on the street late at night. When he asked why he was being arrested, the officers answered ‘because you are gay’ and then asked him to perform oral sex on them.” (IACHR, 12 November 2015, p. 92)

“Police abuse is also reported to take place in or around places where LGBT persons socialize or its surroundings. For instance, a violent police raid is reported to have taken place at an LGBT beauty pageant in Monterrey, Mexico, in February 2013. Agents of the federal police force —under the command of an official of the Federal Public Ministry—stormed the night club where the contest was taking place, ordered everyone out, and arrested at least 70 people who were present at the event, who were fined, without criminal charges. According to the information presented to the Commission, police agents insulted them using homophobic and transphobic slurs: ‘faggots, we are taking you because dressing up as women is immoral.’” (IACHR, 12 November 2015, p. 93)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center notes the following concerning police violence against transgender women, referring in some instances to sources dating back to 2011 and 2012:

“Transgender women in Mexico face brutal violence not only from private citizens, but also from state officials. Police officers and the military subject transgender women to arrest, extortion, and physical abuse. Many transgender women have been victims of police violence or know someone who has been a victim. According to Victor Clark, professor at San Diego State University and the director of the Binational Center for Human Rights in Tijuana, Mexico, the police and military are the ‘primary predators’ targeting transgender women. Mexican police target transgender women and arbitrarily arrest them for pretextual reasons such as ‘disturbing the peace’ because they were wearing female clothing; for being perceived to be sex workers even if they were not; for failing to carry a valid health card; for allegedly carrying drugs; or for being said to be gay.

For example, in March 2014, police officers in Chihuahua, Mexico arrested five transgender women for not carrying a health card, even though this is not a crime. At the police station, male police officers forced the transgender women to undress in front of them. The police then illegally forced the women to take HIV tests. The police held the transgender women in jail for 36 hours and demanded 200 pesos from each woman for release. For decades the Mexican police forces have been implicated in cases of arbitrary detention, torture, and other human rights violations that are often unpunished. Police officers often extort transgender women for sex or money in return for not arresting them or for releasing them from jail. Many transgender women have to pay almost daily bribes to avoid being arrested.” (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 18)
In its March 2017 human rights report covering the year 2016, the USDOS mentions that according to civil society groups, “police routinely subjected LGBTI persons to mistreatment while in custody.” (USDOS, 3 March 2017, section 6)
3 Treatment of individuals of diverse SOGI by non-state actors

3.1 General attitudes

The Department of Foreign Affairs and Trade of the Australian Government provides the travel advisory that “conservative attitudes prevail in parts of the country” and that “public displays of affection between members of the same sex may not be considered socially acceptable in some areas”. (Australian Government – Department of Foreign Affairs and Trade, 22 February 2017)

In its March 2017 human rights report covering the year 2016, the USDOS notes the following concerning discrimination of LGBT persons in Mexico:

“Discrimination based on sexual orientation and gender identity was prevalent, despite a gradual increase in public tolerance of LGBTI individuals according to public opinion surveys. In March, Rubi Suarez Araujo became the first transgender municipal councilor, in Guanajuato. […]

In October the press reported three killings of transgender individuals in the space of 13 days. NGOs stated transgender individuals faced discrimination and were marginalized even within the lesbian and gay community.” (USDOS, 3 March 2017, section 6)

The British daily newspaper The Guardian in its December 2016 article describes the situation in the following terms:

“Surveys show the country split on same-sex marriage – a poll in the newspaper El Universal showed 49% opposed and 43% in favour – although there is still strong opposition to gay couples adopting children.

Opponents appear emboldened, however. A movement known as the National Front for the Family emerged earlier this year after President Enrique Peña Nieto introduced an initiative to legalise marriage equality nationwide, allow all couples to adopt children and to include positive portrayals of the LGBT community in educational materials. The movement against marriage equality – which appears well funded and appears to have the support of politicians across the political spectrum – has since convened more than 100 marches nationwide under the slogan ‘Don’t mess with my kids’. It has also started collecting signatures for a citizen initiative which would reform the constitution to define marriage as heterosexual. […]

Observers say the president’s initiative was the pretext for a series of pro-Catholic organisations – sponsored by big-money backers – to mobilise. ‘These groups came together to take advantage of a weakened president,’ said a former member of a militant Catholic organisation, who asked that her name be withheld for fear of reprisal. […]

The campaign was supported by both evangelical Christians and the Catholic church, which regularly lobbies for policy changes on ‘social’ issues – such as abortion bans – while staying silent on other issues such as drug war violence, which has claimed nearly 200,000 lives. ‘Attacks against the family are much more serious than violence, more serious than
narcotics trafficking and more serious than corruption,’ said Father Hugo Valdemar, archdiocese of Mexico City spokesman.

The president’s plan on marriage equality eventually stalled in congress, where members of Peña Nieto’s own party argued that setting federal policy on same-sex marriages would interfere with states’ ability to set civil registry rules. Other arguments were more extreme: Edith Martínez, who represents Encuentro Social, a party founded by evangelical Christians, said marriage equality would lead to people marrying ‘dolphins or laptops’.” (The Guardian, 19 December 2016)

The Council on Hemispheric Affairs (COHA), a Washington, DC. think tank that focuses on developments in Latin America, describes societal attitudes towards the LGBT Community in Mexico in a report of October 2016:

“In Mexico, the Frente de Liberación Homosexual (FLH) was founded in 1971 as the first LGBT rights organization in the country, and many would soon follow. Less than a decade later, ‘the [LGBT] community was first made visible during Mexico’s first Pride Parade that took place in Mexico City in 1979.’ That is not to say that the LGBT community was suddenly accepted into Mexican society. Similar to many other countries, whatever acceptance occurred in the 1970s quickly fell into the background with the global outbreak of the HIV/AIDS epidemic that forced many societies to regress into habits of ‘discrimination, violence, and persecution of openly queer individuals.’ While many of these tendencies began to subside in the 1990s when transnational nongovernmental organizations (NGOs) began to lobby for LGBT rights, members of the LGBT community never saw true equality when it came to social or institutional acceptance.

Institutional acceptance - although still inadequate - first began to materialize in Mexico City when, in 2006, the city’s mayor signed into law a bill authorizing civil unions for same-sex couples. Far from indicative of a change in the national conversation, the bill was ‘severely criticized by the Catholic Church and conservative civil groups in the country’ as it was believed that recognition of civil unions would be the first step towards full recognition of gay marriage. That is exactly what happened, and in December 2009, Mexico City institutionalized marriage between same-sex couples, the first legislation doing so in Latin America. […]

Unsurprisingly, the same opposition forces that challenged the 2006 measure quickly raised questions regarding the legality of same-sex marriage, sending a case to the Supreme Court of Mexico on the grounds ‘that allowing same-sex marriages violates the guarantee of familial integrity,’ reflective of rhetoric commonly used by religious groups. Regardless, the Court reaffirmed the constitutionality of the law in an 8-2 vote, citing regulation of marriage to be a state function.

Nevertheless, the transformations experienced in Mexico City did not translate into broad policy shifts across the country. […] For his part, former President Felipe Calderón did little to change the national conversation surrounding the status of LGBT rights and individuals in the country given his staunch opposition to legislation allowing same-sex marriage. After
all, it was his attorney general that brought Mexico City’s bill before the Supreme Court, hoping it would be repealed. [...] 

Most recently, in May 2016, President Enrique Peña Nieto declared his intention to submit legislation that would reform the Constitution of Mexico to assure marriage equality throughout the nation. Many Conservatives see this as a direct rebuke of the several states who have reformed their Constitutions to explicitly deny marriage equality in light of growing social trends. The same Catholic and conservative factions that have opposed homosexuality and same-sex marriage throughout Mexico’s storied history have recently mobilized against Nieto. Rather than opposing marriage equality qua marriage equality, the rhetoric of their movement has once again focused on the sanctity of family. On September 14, 2016, the National Front for the Family staged rallies and marches in 122 cities across Mexico, with one of their central concerns being the possibility of same-sex couples adopting children. [...] This was followed by a similar march in Mexico City on September 25 by the same coalition. Once again, they characterized it as being in support of family values and the institution of marriage, rather than as anti-LGBT.” (COHA, 14 October 2016, pp. 3-5)

ILGA in its May 2016 Global Attitudes Survey on LGBTI People, for which data was collected in December 2015/January 2016, reports that in Mexico 8% strongly agreed with the proposal that being LGBTI should be a crime, while 52% strongly disagreed. 12% strongly agreed whereas 29% strongly disagreed that same-sex desire is a Western world phenomenon. 81% had no concerns if they have an LGBT neighbour, while 8% replied they would be very uncomfortable. (ILGA, 17 May 2016, pp. 6, 8, 11)

The Cornell Law School LGBT Clinic and the Transgender Law Center mention the difficulty of gathering data about the LGBT community in their May 2016 report:

“Gathering data about the Mexican LGBT community is hampered by the fact that many individuals are reluctant to reveal their sexual orientation or gender identity because they fear harassment, violence, assault, and other negative societal consequences that may follow from such a disclosure.” (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 9)

In the aforementioned query response about the situation and treatment of sexual minorities, particularly in Mexico City, Cancún, Guadalajara, and Acapulco of August 2015, the Immigration and Refugee Board of Canada (IRB) writes:

“The representative from the Colectivo León Gay, A.C. indicated that some parts of Mexico City, Guadalajara, Puerto Vallarta, and Monterrey ‘can be considered as safe for LGBT persons, however, in the rest of the country it would be difficult to publicly show yourself as an LGBT person’ (10 July 2015).” (IRB, 18 August 2015)

In December 2015 the IACHR published a report on the human rights situation in Mexico which contains the following information on societal attitudes towards LGBT persons:
“The Commission notes that there have been some improvements in Mexico City in terms of discrimination against LGBTI persons, but as stated by one civil society representative, ‘Mexico City is not Mexico,’ in reference to the deep-rooted stereotypes and prejudices that persist in many parts of the country. […]

In its observations to the draft of this report, the State stated that the Pew Research Center ranked Mexico, in June 2013, among the countries with a broad acceptance of homosexuality, recognizing that 61% of the people surveyed opined that homosexuality should be accepted by society.” (IACHR, 31 December 2015, pp. 122-123)

The December 2016 report written by several NGOs and alliances on discrimination based on gender identity and sex characteristics in Mexico mentions the following concerning intersex people:

“Mexico is a country with extreme inequalities, a high rate of extreme poverty and a deficient health system. Unlike what happens in the Global North, many persons with intersex bodies have not been subjected to surgery and have preserved their bodily integrity. But body variations are met with social cruelty, disgust and mockery. Many intersex persons can be subjected to discrimination and violence when their intersex status becomes known in their context.” (Hombres XX et al. December 2016, pp. 6-7)

3.2 Discrimination: labour, health, work

The Mexican news agency Desastre, which in a November 2016 article focuses on topics related to sexual diversity provides information about a study carried out by Fundación Arcoíris, a Mexican organisation that advocates the rights of LGBT people. For the study, 613 persons between 21 and 69 years in seven central federal entities of Mexico were questioned. According to the answers obtained, more than 60 percent of transgender women have been victims of violence because of their gender identity. In the area of security and justice, 62% of trans women, 51% of trans men, 35% of men, 23% of women and more than 28% of the intersex persons were victims of physical aggression due to their gender identity or sexual orientation. The perpetrators were identified as unknown (32%), police (14%), relatives (11%) and friends and partners (12%). The majority of those who asked the authorities for help (88 cases) pointed out that the latter did not act. In 33 cases the authorities blamed the LGBT persons for the incidents:

„Más del 60% de las mujeres transgénero en la zona centro del país ha sido víctima de violencia basada en su identidad de género, esto de acuerdo con un informe que tuvo como objetivo identificar los principales desafíos existentes en la atención a la población LGBTI y su acceso a la educación, trabajo, seguridad social, salud y justicia.

El estudio, que recibió el nombre de Atención a personas LGBTI en México. La condición en algunos estados del centro del país, fue elaborado por la Fundación Arcoíris, una asociación civil que lucha por los derechos de las personas LGBTI, a partir de las respuestas otorgadas por 613 encuestados de 21 a 69 años y provenientes del Estado de México, Guanajuato, Hidalgo, Michoacán, Querétaro, Tlaxcala y Zacatecas. […]

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En el rubro de seguridad y justicia, se presentó que el 62% de las mujeres trans, el 51% de hombres trans, el 35% de hombres y el 23% de mujeres han sido víctimas de agresiones físicas por su identidad de género u orientación sexual. En el caso de las personas intersexuales, la violencia se ha presentado en el 28.57% de los participantes. Los agresores fueron identificados como desconocidos (32%), policías (14%), familiares (11%), y amigos y pareja (12%). La mayoría de quienes acudieron a las autoridades (88 casos) para denunciar estos hechos señalaron que las autoridades resultaron inoperantes. En 33 casos las autoridades culparon a las personas LGBT de los hechos ocurridos.” (Desastre, 9 November 2016)

Between 15 and 20% of the respondents claimed to have been detained for the simple fact of being LGBT, the Mexican news agency Desastre continues to report. They stated that they were subjected to different forms of aggression while in detention, for example incomunicado detention and insults. Furthermore, they were not informed about the reasons for their detention. Most of the trans and intersex respondents agreed that there are no adequate health services for them. 55% of the homosexual men stated that the staff are only rarely trained to care for LGBT people. More than 50% of the respondents that expressed their sexual orientation while attending health services were discriminated against and faced pejorative remarks. 21% of the respondents stated that they have been forced to undergo treatment related to their sexual orientation and gender identity at one point:

“Por otro lado, entre el 15% y 20% de los encuestados afirmaron haber sido detenid por el simple hecho de ser LGBTI. Revelaron que durante su detención fueron objetos de diferentes formas de agresión, como la incomunicación y los insultos; además, no les informaron el motivo de su detención.

Al cuestionar a los participantes sobre si creen que los servicios de salud son adecuados para las personas LGBTI, se encontró que la mayoría de las personas trans e intersex concordaron en que no existen servicios adecuados para ellos. A la vez que 55% de los hombres homosexuales dijo que pocas veces el personal está capacitado para atender a las personas LGBTI.

Se identificó que más del 50% de las personas que expresaron su orientación sexual en los servicios de salud fueron discriminadas y recibieron comentarios peyorativos. Finalmente, 21% declaró que alguna vez se han visto obligados a someterse a tratamientos relacionados con su orientación sexual e identidad de género.” (Desastre, 9 November 2016)

The same article states that concerning education, seven out of ten respondents answered that they have not received education on the human rights of LGBTI persons. The participants of the study agreed that primary school, secondary school and high school were the educational levels where they suffered the most discrimination. The most common forms of aggressions in the field of education were the exclusion from academic activities (46.15%), mockery (45.93%) and beatings (44.68%). Of those respondents who stated having concealed their sexual orientation at work almost 29.55% were gay, 28.41% were lesbian, and a similar share was bisexual. Two out of ten respondents answered that they are treated badly or very badly at
In addition, it was revealed that for 39% of the surveyed trans women and 37% of the surveyed homosexual men a HIV testing was a job requirement. Of those respondents who answered that they were constantly harassed at work (no absolute numbers available), 51.72% were gay, 20.69% bisexual and 13.79% lesbians. Confronted with the problem of constant harassment LGBT persons choose to hide their sexual orientation, change or leave jobs:

“En materia de educación, siete de cada diez encuestados declararon que no han recibido educación sobre derechos humanos de las personas LGBTI. Los participantes concordaron que la primaria, secundaria y preparatoria fueron los niveles educativos donde padecieron mayor discriminación. Las agresiones más comunes expresadas en el espacio educativo fueron la exclusión de las actividades académicas, con 46.15%; la burla, con 45.93%; y los golpes, con 44.68%.

En el ámbito de seguridad social y derecho al trabajo, se encontró que el casi el 30% de las personas homosexuales, lesbianas y bisexuales han ocultado su orientación sexual en el trabajo. Dos de cada 10 señalaron que el trato en el trabajo es malo o muy malo. Además, se reveló que algunas mujeres trans (39%) y hombres homosexuales (37%) reportaron que les fueron solicitadas pruebas de VIH como requisito laboral.

De las personas que dijeron vivir constantemente situaciones de acoso y hostigamiento en su trabajo, 51.72% eran homosexuales, 20.69% bisexuales, 13.79% lesbianas; ante esta situación las personas LGBTI optan por ocultar su orientación sexual e identidad de género, cambiar de empleo o ausentarse de su trabajo.” (Desastre, 9 November 2016)

In November 2016 Página 24, a Mexican daily newspaper, also reports on the study carried out by Fundación Arcoíris. The article mentions that 49% of the interviewed LGBT persons who have an insurance with the Mexican Social Security Institute (IMSS) worry that they might not be able to insure their partners:

„Con la presencia de Sara Ortiz, titular del colectivo Hij@s de la Luna; Raquel Ortiz, representante de la Secretaría de Gobernación de Zacatecas; la diputada local María Elena Ortega; María de la Paz Barrón, representante del grupo Eclipse Lésbico de Zacatecas y Ximena Batista, coordinadora de la Fundación Arcoíris, presentaron los resultados del diagnóstico sobre la atención a personas LGBTI en México.

María de la Paz Barrón, representante del grupo Eclipse Lésbico de Zacatecas, dio a conocer que hay muchos aspectos que hacen que en Zacatecas se viva un ‘racismo’, una falta de equidad para las personas LGBTI.

Explicó que 49 por ciento de la población LGBTI que está afiliada al Instituto Mexicano del Seguro Social (IMSS), sin embargo es inquietante que no puedan asegurar a sus parejas.“ (Página 24, 20 November 2016)

The study of Fundación Arcoíris can be accessed via the following link:
- Fundación Arcoíris por el respect a la diversidad sexual: Atención a personas LGBTI. La condición en algunos estados del centro del país, October 2016
  https://issuu.com/fundacionarcoiris/docs/atenci__n_a_personas_lgbti_en_m__xi
An August 2016 article by the news agency Reuters on transgender women in Mexico describes the case of a transgender activist who was discriminated against while studying. According to the activist, “[t]he school asked me to leave because I was going to influence the children and encourage them to be homosexual or transgender”. Cymene Howe, professor of anthropology at Rice University in Houston, Texas, mentions that “[m]ost transgender women find their appearance prevents them from working in regular jobs”. For that reason, many end up as sex workers. (Reuters, 22 August 2016)

The December 2016 report written by several NGOs and alliances on discrimination due to gender identity and sex characteristics in Mexico contains the following information:

“Since they do not have identification documents that reflect their gender identity, the majority of Mexican trans people are excluded from exercising their economic and social rights. They don’t have access to formal employment, to rent a home or to register to study. They are pushed to live in hiding and have less elements to defend themselves from pervasive machismo, cisnormativity, transphobia and social discrimination.” (Hombres XX et al. December 2016, p. 3)

“Intersex persons are born with sexual characteristics (like genitals, gonades and chromosomic patterns) that do not correspond to the typical binary notions on male or female bodies. [...] Through the work done by Brújula Intersexual we have witnessed how the intersex community in Mexico faces problems that are similar to those faced by intersex persons across the world but with some specificities.

The medical care protocol for persons with intersex variations includes mutilizing and ‘normalizing’ practices such as genital surgeries, psychological treatments and others that medically unnecessary, all performed on intersex persons who are under age and without their informed consent. [...] The lack of trained and sensitized specialists who can treat intersex persons efficiently and respecting their dignity is noticeable. [...] Intersex persons face serious difficulties to access their own medical histories or records. Procedures to access those records can be lengthy and they are not always successful.” (Hombres XX et al. December 2016, pp. 5-7)

Concerning employment discrimination, especially of transgender women, the May 2016 report by the Cornell Law School LGBT Clinic and the Transgender Law Center writes the following:

“Mexico’s federal antidiscrimination laws do not prohibit discrimination on the basis of gender identity. The lack of protection leaves transgender women especially vulnerable to employment discrimination. As a consequence, few legal employment opportunities exist for transgender women. Approximately one out of three gay people in Mexico report that they must remain ‘in the closet’ to avoid being fired from their jobs. But for many transgender women - who largely lack access to gender-confirming health care due to high costs, and are generally denied the ability to change the name and/or gender on ID documents to match their gender presentation - it may be difficult or impossible to hide their transgender status, despite the economic penalty that brings. A fortunate few can
work as hairstylists or perhaps open a salon if they have enough money or family support. But many transgender women face such socioeconomic marginalization that they must turn to sex work to survive.” (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 23)

In its March 2017 human rights report covering the year 2016, the USDOS states:

“The Executive Committee for Victims Assistance, an independent federal agency, completed a survey of 425 lesbian, gay, bisexual or transgender persons. Seven of 10 respondents reported discrimination in schools; half reported employment discrimination or harassment; and six of 10 reported having known an LGBT person murdered in the past three years. […]

The National Council to Prevent Discrimination has both national and local level branches. […] The national level council received complaints of discriminatory acts in areas of employment, access to commercial establishments, and access to education and health care.” (USDOS, 3 March 2017, section 6)

The June 2014 NGO report on human rights violations against LGBT people in Mexico provides details about homophobic bullying in schools:

“School children throughout Mexico experience bullying, including insults, taunts, beatings, and other discriminatory behavior, based on their perceived or actual sexual orientation or gender identity. The perpetrators usually are the victims’ peers, but in some cases the bullies are teachers or other school staff.

A 2012 survey on homophobic bullying in Mexico revealed that 67% of the survey respondents reported having been victims of homophobic bullying. Seventy four percent of gay respondents reported having been bullied, as did 50% of lesbian respondents and 66% of transgender respondents. Younger students were most at risk. Fifty six percent of respondents indicated that they had experienced the most bullying in middle school (grades 7-9), and 28% indicated that they had experienced the most bullying in primary school (grades 1-6).

While the most commonly reported form of bullying was insults and taunts (experienced by 92% of victims of bullying), approximately one third (32%) of victims reported having been beaten. Asked about the response of teachers and school authorities, only 3% reported that the bullies had been punished. Forty eight percent said that teachers and school authorities did nothing because the conduct seemed normal to them, and 11% said they did nothing because they were themselves involved in the bullying.

This bullying has had profound effects on the victims. Fifty one percent reported suffering from depression and 25% had thought about suicide.” (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, pp. 8-9)

Broadly, a website and video channel owned by the American media company Vice, which describes its task as “representing the multiplicity of women’s experiences” provides the
following information in a November 2016 article citing information by the Mexican Center of Support for Trans Identities:

“Suárez’s group believe that a large majority of transgender sex workers in Mexico City have fled socially conservative states, often after they were kicked out of their family’s homes. He says that Mexico City has few work opportunities for trans people, and they often turn to sex work to survive. ‘They then face the double stigmatization, of being trans and being a sex worker,’ he adds.” (Broadly, 20 November 2016)

In its query response about the situation and treatment of sexual minorities, particularly in Mexico City, Cancún, Guadalajara, and Acapulco of August 2015, the Immigration and Refugee Board of Canada (IRB) writes:

“In correspondence with the Research Directorate, a representative from the Colectivo León Gay, A.C., an NGO that advocates for the rights of LGBT persons in Mexico, indicated that LGBT persons face discrimination when accessing health care services (Colectivo León Gay, A.C. 10 July 2015).” (IRB, 18 August 2015)

3.3 Killings, attacks

In 2016 Letra S publishes information according to which 1,310 cases of killings of LGBT persons motivated by homophobia were committed in Mexico between 1995 and 2016 (cases registered until 30 April 2016), 44 of them in 2015 and 15 in 2016. In the last ten years there have been 71 homicides a year on average. The figures are based on the results of a media monitoring in 29 entities of Mexico and cannot be considered representative or final:

“Con un total de 1,310 casos, las cifras que se presentan a continuación son producto de un monitoreo de medios de comunicación realizado en 29 entidades del país. Por lo mismo, dicho monitoreo no puede considerarse representativo ni definitivo. […]

El promedio de homicidios en los últimos 10 años es de 71.1 casos al año.” (Letra S, Sida, Cultura y Vida Cotidiana, AC, 2016)

Transgender Europe (TGEU) a network of organisations that works for the equality of all trans people in Europe, in a November 2016 article lists the killings of trans and gender-diverse persons around the world. Regarding Mexico, the article reports 52 killings in the time period between 1 October 2015 and 30 September 2016. For the longer monitoring period of 1 January 2008 until 30 September 2016, a total of 271 killings are reported for Mexico. (TGEU, 9 November 2016)

The November 2016 article in Broadly mentions “[t]wo high-profile deaths of transgender sex workers” and adds that, according to the spokesperson of the Mexican Center of Support for Trans Identities, “12 trans people have been killed in October of this year alone”. (Broadly, 20 November 2016)

Public Radio International (PRI), an American public radio organization, provides the following information concerning homophobia and killings motivated by homophobia in a September 2016 article:
“A gay rights advocacy group said that homophobia has surged in Mexico since Pena Nieto’s proposal. The Citizen Commission against Homophobic Hate Crimes said at least 26 people from the LGBT community were killed so far this year. The group reported 44 anti-gay murders in 2015, down from 72 in 2014. The majority of the population of Mexico is Roman Catholic, and church leaders in Mexico are firmly opposed to same-sex marriage.” (PRI, 13 September 2016)

The IACHR in its December 2015 report on the human rights situation in Mexico refers to murders of and attacks against LGBT persons:

“The Commission’s Special Rapporteur on the rights of LGBTI persons received information that in a period of 15 months (between January 2013 and March 2014), there were a total of 42 murders and 2 attacks on physical integrity in Mexico (both knife attacks) against transgender people (or perceived as such); 4 attacks on the physical integrity of lesbians (or perceived as such), 3 of which were beatings and one death threat; and 37 murders of gay men (or perceived as such) and two attacks on the physical integrity, including a case of mutilation where the victim’s eyes were torn out, and another related case of sexual violence and beatings from Police agents. […]

Between 1995 and 2014 there were 1,218 murders in Mexico motivated by prejudice against individuals because of their real or perceived sexual orientation and/or gender identity, according to the report by the Citizens Commission Against Homophobic Hate Crimes (CCCOH) of the civil society organization Letra S, AIDS, Culture and Everyday Life AC. The report indicates that the largest number of such murders involved men (976), followed by transgender community members with 226 cases reported, and women (16). It also indicated that over 80% of the records show that the victims suffered various forms of aggression before being killed.” (IACHR, 31 December 2015, p. 122)

The November 2015 IACHR report mentions that the Mexican Executive Commission for Attention to Victims [‘Comisión Ejecutiva de Atención a Victimas’ (CEAV)] in 2014 “expressed its concern with regard to the rising number and increasingly violent nature of crimes based on prejudice against LGBT persons”. (IACHR, 12 November 2015, p. 83)

The June 2014 NGO report on human rights violations against LGBT people in Mexico notes the following:

“An alarmingly high number of LGBTI individuals have been murdered in Mexico in recent years. Based on a review of news media and internet sites, Letra S has compiled a register identifying 288 LGBTI individuals murdered in Mexico from 2010 through 2013. Undoubtedly, this register underestimates the true number killed during this time period. Transgender women are at particular risk of murder. According to a 2012 report by the NGO Centro de Apoyo a las Identidades Trans A.C., 126 transgender women were murdered in Mexico from 2010 through 2012.” (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, p. 5)

The August 2016 article of the Economist newspaper states:
“The spread of gay rights has been accompanied by more reports of violence against homosexuals. The number of homophobic murders has jumped to 71 a year on average over the past decade from 50 a year during the previous ten years, according to Letra S. In June, in the northern town of Monclova, a lorry driver shot Jessica González Tovar and ran her over in the presence of her female partner.

But reports of more homophobic violence may be misleading. Letra S draws its data from newspaper reports, since the police do not report such crimes separately. The higher numbers may show that the press is reporting them more accurately, Letra S acknowledges. ‘There seems to be more homophobia,’ says Nicolás Loza Otero of FLACSO, a university in Mexico City, ‘but I think there’s less.’

That hopeful assessment is probably right. Even the conservative areas north-west of Mexico City are changing. Fresnillo, a town in Zacatecas, elected Mexico’s first openly gay mayor, Benjamín Medrano, in 2013. Rubí Suárez Araujo became Mexico’s first transgender municipal councillor in Guanajuato in March this year. Sexual diversity is increasingly visible in Guadalajara, says María Martha Collignon of ITESO, a university there. A gay marriage takes place nearly every week.

Just under half of Mexicans support gay marriage, according to a poll conducted in 2013 and 2014 by the Pew Research Centre, a think-tank. But among those aged 18 to 34, 63% are in favour. Older Mexicans are becoming less censorious. ‘Parents aren’t saying they’re pleased at the news that their children are lesbian,’ says Paulina Martinez of Metal Muses, a lesbian pressure group. ‘But they accept it more.’ It will take years before Mexico becomes as tolerant as its capital, but gay people in the heartlands have grounds for hope.”

(Economist, 18 August 2016)

The Indian online newspaper Firstpost in a January 2017 article writes on homophobia and violence against LGBT people in Mexico:

“Homophobia has surged in Mexico since president Enrique Pena Nieto proposed to legalise same-sex marriage in May, a gay rights group said, reporting 26 hate-fueled murders this year. Alejandro Brito, head of the Citizen Commission against Homophobic Hate Crimes, said there was a ‘defamation campaign’ against gays.

‘This can trigger a wave of violence and an increase in attacks against homosexuals. We think that it’s important for the authorities to take care of this before a tragedy takes place,’ he said yesterday. ‘Homophobia has worsened this year due to the opposition to the initiative that the president has sent to Congress,’ Brito said at a news conference. [...] Brito said that at least 26 people from the LGBT community were killed so far this year, with some brutal homicides perpetrated after the president’s announcement. [...]”

Pena Nieto’s initiative has been opposed by Mexico’s Roman Catholic Church and members of conservative parties. The leftist Democratic Revolution Party and LGBT rights groups filed complaints in the interior ministry and the government’s anti-discrimination agency against bishops and a cardinal, accusing them of violating the constitution for their public stance against same-sex marriage. Brito said that propaganda has spread at private schools
claiming that children were at risk of facing questions about gender in class.” (Firstpost, 27 January 2017)

The December 2016 report written by several NGOs and alliances on discrimination due to gender identity and sex characteristics in Mexico also refers to the killing of transgender people:

“The precarious social and economic situation of the majority of trans people in Mexico also has fatal consequences for them. Killings of trans people who engage in sex work and/or who are homeless are frequent, and they tend to end in impunity. For example, only in the month of October 2016, six trans people were killed in Mexico: Paola and Alessa in Mexico City; a trans young woman whose identity couldn’t be confirmed in the State of Mexico; Itzel in Chiapas; Cheva in Chihuahua and Ariel in Guanajuato. Statistics gathered by civil society organizations (since there are no official statistics) indicate there are 77 killings of trans people per year in Mexico. The case of Paola, street sex work, shows the precarious situation of trans women: a man stopped his car in front of her, supposedly because he wanted to engage in sex with her, but he shot her until he killed her. Also, the fact that some trans women, like the young woman in the state of Mexico who died as an unidentified person, also shows their condition as ‘non-citizens’ in Mexico.” (Hombres XX et al. December 2016, p. 3)

The May 2016 report by the Cornell Law School LGBT Clinic and the Transgender Law Center provides the following information concerning violence against transgender women:

“Despite recent legal reforms in Mexico, legal advocates and individuals living in both Mexico and the U.S. report that rates of violence against transgender women are higher than ever. Specifically, violence against the LGBT community has actually increased since the recognition of same-sex marriage throughout Mexico because of backlash to these progressive changes in the law.

Despite the legal changes for same-sex couples in recent years, transgender women in Mexico still face pervasive persecution based on their gender identity and expression. Indeed, violence against LGBT people has actually increased, with transgender women bearing the brunt of this escalation. Changes in the laws have made the LGBT communities more visible to the public and more vulnerable to homophobic and transphobic violence. Increased visibility has actually increased public misperceptions and false stereotypes about the gay and transgender communities. This has produced fears about these communities, such as that being gay or transgender is ‘contagious’ or that all transgender individuals are HIV positive. These fears have in turn led to hate crimes and murders of LGBT people, particularly transgender women.” (Cornell University Law School, Transgender Law Center, May 2016, p. 4)

“Vulnerable communities, including transgender women, are often victims of drug cartel and gang violence. Transgender women fall victim to cartel kidnappings, extortions, and human trafficking. One transgender woman described how cartel members forced her into sex work in Merida. Another transgender woman was targeted for rape and robbery while traveling by bus. In another case, a transgender woman named Joahana in Cancun was tortured to death by drug traffickers who carved a letter ‘Z’ for the Zeta cartel into her
body. If a cartel targets a transgender woman, it is nearly impossible to escape the cartel’s power. An immigration attorney in the U.S. described in an interview how his transgender female client unknowingly dated a cartel member. After doing so, she could not escape persecution from the cartel.” (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, pp. 19-20)

The August 2016 article of Reuters contains the following information:

“A U.S. immigration judge warned last year of ‘an epidemic of unsolved violent crimes’ against transgender people in Mexico. Although gender identity is not the same as sexual orientation, many transgender women in Mexico are persecuted on the assumption they are gay, experts said. ‘Transgender women have become a focal point for hatred because they are often easier to detect,’ said Maria Martha Collignon, a sociologist at Guadalajara’s Western Institute of Technology and Higher Education. Ballesteros said transgender women are also at risk from the drug cartels that demand money from sex workers on the streets.” (Reuters, 22 August 2016)

The IACHR report of November 2015 further mentions the following information on LGBT persons in the penitentiary system providing information concerning, among others, Mexico:

“Several NGOs report that LGBT persons often decide to remain in their cells as much as possible in order to avoid being attacked by other inmates. […] In México, for instance, local organizations allege that at least 60% of LGBT persons deprived of their liberty have been subject to different kinds of abuse.” (IACHR, 12 November 2015, p. 100)
4 Situation of human rights defenders advocating rights of individuals of diverse SOGI

The June 2014 NGO report on human rights violations against LGBT people in Mexico notes that “Letra S has compiled a register of more than 250 homicides of LGBTI individuals in the years 2010-2013, including homicides of LGBTI human rights defenders” (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, p. 2). The report continues to list the following examples of prominent LGBTI human rights defenders murdered in 2011 and 2012:

“Quetzalcoatl Leija Herrera, an LBGTI rights activist, was found beaten to death on May 3, 2011, near the central plaza in Chilpancingo.

Cristian Ivan Sanchez Venancio, another LGBTI human rights defender, was found stabbed to death in his home in Mexico City on July 23, 2011. He was a member of the Revolutionary Democratic Party’s Coordinating Group for Sexual Diversity, and was an organizer of Mexico City’s annual Pride Parade.

Agnes Torres, a transgender woman and LGBTI rights activist, was found murdered in Puebla on March 10, 2012. A 28-year-old psychologist and educator, she was an ardent defender of LGBTI rights who had lobbied for legislative reform. When her body was found, she was stripped to her underwear, with her throat slashed and with burns marks across her body.” (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, pp. 5-6)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center also mentions the killings of Quetzalcoatl Leija Herrera, Cristian Ivan Sanchez Venancio and Agnes Torres Sulca and explains that many killings of prominent advocates in the transgender community since 2010 “occurred in Mexico City, despite its adoption of a hate crimes statute and antidiscrimination laws” (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, pp. 14, 16-17).

In addition to the assassinations referred to above, the IACHR report of November 2015 mentions the killing of Edgar Sosa Meyemberg, a gay teacher and reproductive rights activist who “was found dead with clear signs of torture and his skull destroyed by a blunt object” in 2014. (IACHR, 12 November 2015, p. 190)

Michel Forst, the United Nations Special Rapporteur on the situation of human rights defenders, notes the following in a statement on his visit to Mexico from 16 to 24 January 2017, published by the UN Office of the High Commissioner for Human Rights (OHCHR):

“As I did not want to confine my visit to Mexico City, I travelled to Chihuahua, Guerrero, Oaxaca and the State of Mexico. As a result, I had a chance to meet with more than 800 human rights defenders coming from 24 states, approximately 60 % of which were women defenders. This reinforced my impression of an active, vibrant and engaged civil society in Mexico. I met with a great number of families of disappeared persons, as well as defenders who have been arbitrarily arrested, some of whom were tortured by the police or the army, community leaders and indigenous people who reported having been deprived from their
land, defenders working on sensitive issues such as sexual and reproductive rights or sexual orientation and gender identity. [...] 

In recent months, defenders of LGBTI rights have also faced a strong public campaign against them, which has increased the climate of fear in which many of these defenders live. Attacks against LGBTI activists are usually related to the promotion of a bigger recognition of their rights. Prejudices based on sexual orientation and gender identity by police officers and prosecutors seem to affect the effectiveness of investigation of these attacks. Assassinations of activists are not investigated as possible hate crimes nor related to their work on defence of LGBTI people human rights. Moreover, authorities often denigrate the victim in an attempt to reduce the attacks to private issues. Transsexual human rights defenders often face more risks as a result of the high levels of sexual violence among transsexual communities. In many states, defenders of LGBTI rights face problems to organise themselves, use public space, access resources and are not taken into account by local and state authorities. I also heard testimonies of defenders working on LGBTI rights who may feel isolated from the broader community of defenders.” (OHCHR, 24 January 2017)

General information on the situation of human rights defenders can be found in the following reports:

5 Ability and willingness of the state to provide protection to individuals of diverse SOGI and to human rights defenders

In April 2014, the United Nations Human Rights Council (HRC) published a report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, on his visit to Mexico from 22 April to 2 May 2013 which contains the following information:

“86. Killings of LGBT individuals are marked by either a total failure to investigate or a faulty investigation guided by stereotypes and prejudice. This concern has also been raised by CNDH [Comisión Nacional de los Derechos Humanos], which has indicated that crimes and human rights violations based on sexual orientation, gender identity or expression are not isolated, but are emblematic of patterns of conduct of some members of society and recurrent actions of certain public servants, including prejudices, dislikes and rejections, reflecting the existence of a serious structural problem of intolerance. The Special Rapporteur was told that authorities are quick to close such cases by calling these killings ‘crimes of passion’ and choosing not to pursue their prosecution as seriously as they should.

87. The Special Rapporteur was further briefed on two cases in which an LGBT individual reported a death threat to government authorities and the state human rights commission and was subsequently killed without intervention or protective measures. According to information received, CNDH has considered a number of crimes based on homophobia in which the perpetrators have been identified as civilians and police officers. The implication of police involvement is reinforced at a systemic level by large-scale impunity.” (HRC, 28 April 2014, p. 18)

The IRB in its August 2015 query response on the situation and treatment of sexual minorities states as follows:

“According to the Queer Investigations representative, the LGBT population in Mexico continues to be persecuted, criminalized, and discriminated against due to the [translation] ‘high degree of corruption, negligence, and impunity’ in the justice system (ibid. 10 July 2015). […]

The representative from the Colectivo León Gay, A.C. indicated that even though Mexican authorities have been receiving training in sexual diversity issues, they do not have an integrated strategy nor do they seek the participation of LGBT rights organizations in that training (Colectivo León Gay, A.C. 10 July 2015).” (IRB, 18 August 2015)

In the August 2016 article of Reuters, a sex worker whose colleague had been murdered indicates that “police do little to protect the transgender community”. According to the article, “no one has been arrested in connection to any of her friends’ deaths”. Besides that the sex worker says that “street-based sex workers who may be victimized are unlikely to contact police for fear of harassment or extortion”. The same article quotes Zapopan Police Commissioner Juan Pablo Hernandez saying that his department aims to protect all citizens. According to Hernandez, sensitivity training has been provided “to promote police empathy towards different vulnerable communities, including the transgender community”. (Reuters, 22 August 2016).
In its March 2017 human rights report covering the year 2016, the USDOS states:

“The law prohibits discrimination against LGBTI individuals, but there were reports that the government did not always investigate and punish those complicit in abuses, especially outside Mexico City. [...] Civil society groups reported that the full extent of hate crimes, including killings of LGBTI persons, was difficult to ascertain because authorities often mischaracterized these crimes as ‘crimes of passion,’ which resulted in the authorities’ failure to adequately investigate, prosecute, or punish these incidents.” (USDOS, 3 March 2017, section 6)

The June 2014 NGO report on human rights violations against LGBT people in Mexico contains similar information regarding the mischaracterisation of crimes against LGBTI individuals as “crimes of passion” and the failure of the authorities to properly investigate, prosecute, or punish those crimes. (Letra S, Sida, Cultura y Vida Cotidiana, A.C. et al., June 2014, p. 2)

The November 2015 IACHR report notes the following with regard to prejudice and bias in investigations of crimes against LGBT persons providing information concerning, among others, Mexico:

“The IACHR has received copious information regarding prejudice and bias in investigations of crimes against LGBT persons, both from States and civil society organizations. The IACHR has expressed concern over the tendency of state agents in the justice systems of countries in the Americas to make biased assumptions, from the very beginning of an investigation, with regard to the motives, possible suspects, and circumstances of crimes, based on the victims’ perceived or actual sexual orientation or gender identity. The usual consequence of these biased assumptions is that — instead of thoroughly collecting evidence and conducting serious and impartial investigations — police officers and other justice system agents direct their actions toward finding evidence that confirms their prejudiced theory of events, which in turn frustrates the purpose of the investigation and may lead to the invalidation of the proceedings.” (IACHR, 12 November 2015, p. 249)

“The IACHR has been informed that in many countries in the region where there is legislation that increases penalties for crimes committed on the basis of the sexual orientation or gender identity of the victim, the legislation is hardly ever applied to specific cases, and hate crimes are more often addressed as common crimes, disregarding the prejudice with which they were committed.” (IACHR, 12 November 2015, p. 256)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center describes the National Council to Prevent Discrimination (CONAPRED) and its tasks as follows:

“The National Council to Prevent Discrimination (CONAPRED) was created by the 2003 Federal Law to Prevent and Eliminate Discrimination. The agency is tasked with promoting policies and measures that contribute to cultural and social development, while advancing social inclusion. People who suffer discrimination committed by private individuals or by federal authorities can file a complaint with CONAPRED. When an aggrieved person files a complaint, the Council undertakes a settlement process between the parties. If they do not
reach an agreement, CONAPRED can undertake an independent investigation. If it determines that human rights violations have been committed, it can order restitution measures including financial compensation, a public reprimand of the offender, a public or private apology, and a vow from the offender to never repeat the act.” (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 10)

However, the March 2017 USDOS report mentions with regard to CONAPRED that “[c]ivil society groups reported difficulty in determining whether individual complaints were ever resolved”. (USDOS, 3 March 2017, section 6)

The May 2016 report of the Cornell Law School LGBT Clinic and the Transgender Law Center further states that transgender women, among others, “are often victims of drug cartel and gang violence” and police often cooperate with cartels and gangs “with 98% of all crimes going unpunished”. (Cornell Law School LGBT Clinic, Transgender Law Center, May 2016, p. 19)
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Tab. 15.
Women in prison

Women make up nearly 7% of the population in federal prisons (Comisión Nacional de Seguridad, 2016)

The vast majority of women detained in federal prisons are first time offenders, mostly imprisoned for drug-related crimes.

There is evidence to suggest that torture and other ill-treatment is used frequently against people accused of high-profile crimes that fall within the public security strategy of the so-called “war on drugs.” Of the 100 women interviewed by Amnesty International, 33% had been accused of being part of organized crime groups, 23% had been accused of narcotics crimes, 22% had been accused of kidnapping and 14% with illegal possession of firearms.

The federal prison population is largely made up by people from low income backgrounds. Data on the federal prison system shows that 60% of women in prison did not complete high school. (CIDE, 2012)

Of the cases Amnesty International documented for this report, most women earned between 1,000 and 5,000 pesos a month (approximately US$70 to US$300) with some earning much less.
Torture against women

Amnesty International interviewed 100 women held in federal prison about the torture and other ill-treatment they were subjected to during their arrest and interrogation by police or armed forces.

100 said they suffered sexual harassment or psychological abuse during their arrest or in the hours that followed.

97 said they suffered physical violence during their arrest or in the hours that followed.

79 said they were hit to the head, 62 in the stomach or torax, 61 on the legs and 28 on the ears (the face was deliberately excluded to avoid obvious injuries).

33 reported being raped by municipal, state or federal police officers or members of the Army and Navy. In arrests carried out by municipal and state police and the armed forces, rape was reported in at least half of the arrests carried out. In the 10 arrests carried out by the Navy documented in this report, 8 arrests included rape reported by the women.

66 of the women said they had reported the abuse to the authorities but investigations were opened in only 22 cases. Amnesty International is not aware of any criminal charges arising from these investigations.

Torture and other ill-treatment in Mexico

2,403 – number of criminal complaints for torture received by the Federal Attorney General’s Office in 2014.

0 – number of criminal charges Mexico’s Federal Attorney General’s Office was able to confirm to Amnesty International for 2014 and 2015.

0 – number of soldiers from the Army suspended during investigation from service for “rape” or “sexual abuse” from 2010 to 2015.

12,110 – number of reports of torture and other ill-treatment filed before Mexico’s local and national human rights ombudsman bodies in just one year, 2013.

15 – number of torture convictions at the federal level since 1991 (IACHR, 2015)

STORIES

Verónica Razo, detained for five years awaiting outcome of trial

Verónica Razo, a 37 year old mother of two, was abducted by men dressed in plainclothes as she walked along a street near her house in central Mexico City on 8 June 2011.

The men took her to a Federal Police warehouse where she was held for 24 hours and tortured.

She was beaten, subjected to near asphyxiation and electric shocks and repeatedly raped by several police officers. She was threatened and forced to sign a “confession”. After her interrogation by police and prosecutors, she collapsed and was rushed to the hospital where she was treated for severe heart palpitations.

Police claimed they arrested Verónica the following day and accused her of being part of a kidnapping ring. However, the night of her arrest her mother had already filed a missing person’s report with local officials.

Two years after her arrest, psychologists from Mexico’s Federal Attorney General’s Office confirmed Verónica presented symptoms consistent with torture. She has spent five years in prison awaiting the outcome of her trial. Veronica’s daughter was just six years old at the time of Verónica’s arrest and her son was 12. Her son, now 18, has been unable to go to university because of the financial burden that his mother’s imprisonment has had on the family. Verónica’s mother had to leave her house and sell her shop because of the difficulty that accompanying her daughter has represented.

**Tailyn Wang: Miscarried inside prosecutor’s office after brutal police beatings**

Tailyn Wang was approximately seven-weeks pregnant when her house was broken into by federal police officers in February 2014 and she was taken to police installations without any arrest warrant. After prolonged beating and sexual abuse at the hands of federal police, Taylin miscarried inside the offices of the PGR in Mexico City.

Two state doctors undertook a medical examination while she was under official custody, and despite her injuries, the first doctor did not properly examine her and dismissed her claims that she had been brutally beaten. Neither doctor reported her allegations of torture and ill-treatment.

She was given no medicine for her pain and was simply handed a few sheets of paper towel to stuff down her pants before she was whisked away, handcuffed, to board a commercial plane and taken to a federal prison. When the plane landed in Tepic, northwest Mexico, the airline seat was drenched with blood.

Tailyn told prison officials she had had a miscarriage, but they only yelled at her. It was only then, in prison and at least four days after the arrest, when Tailyn was told that she was being accused of being part of a gang of kidnappers and charged with organized crime. She bled for five more days in prison without being given any proper medical attention. Tailyn remains in prison awaiting the outcome of her trial. Despite denouncing torture over two years ago, she is still waiting to be examined by an official forensic doctor to document the torture and other ill-treatment she suffered.

**Maria Magdalena Saavedra: Noted as “physically healthy” by Navy Doctor after being raped**

Magdalena was abducted by armed Navy marines from her house on 10 May 2013 in San Luis Potosí. The marines burst into her bedroom and beat her while they yelled questions at her. They accused her of being the financial controller for a major drug gang.

They placed a bag over her head until she suffocated and passed out. Then, they loaded her into a van and continued to beat her and raped her with objects. They later took her to a building that to Magdalena appeared to be a police station and applied electric shocks to her genitals and her mouth. They had grabbed the address
of her daughter from Magdalena’s belongings and threatened to harm her. The torture at the hands of the Navy marines lasted for 20 hours.

Magdalena was then taken to the offices of the PGR and forced to sign a “confession” with her fingerprints. On her way to the Federal Prosecutor’s Office (PGR), a marine stayed by her side and continued to beat her. In the PGR she was presented as a criminal to the media by the Navy and the police.

The Navy doctor, after conducting a medical examination following her arrest, noted that “the detainee is ‘physically healthy’”. At her first hearing before a judge a couple of days after, the judge’s description of Magdalena’s state was in stark contrast to that documented by the Navy: “the suspect was sobbing, with tension, depression and manifest anxiety”. When Amnesty International interviewed Magdalena in early 2016, more than three years after the arrest, scars were still visible and she showed clear signs of trauma. Magdalena remains in prison awaiting the outcome of her trial.

Denise Blanco and Korina Utrera, humiliated for being lesbians and raped by the Navy

On 27 August 2011, 25-year-old Korina de Jesús Utrera Domínguez and her girlfriend, Denise Francisca Blanco Lovato, were at Korina’s home in Tabasco, southern Mexico, when armed marines in camouflage uniforms stormed into the house and started to beat them and yell at them. Both women were blindfolded and taken away without any arrest warrant to a Navy base. There, they were both raped and subjected to near asphyxiation and electric shocks. According to Korina, one of the marines tried to put his penis into Korina´s mouth and shouted “Come on bitch, have a try.” When marines were forcing her to eat food off the ground, one of them yelled: “Enough! They are going to sue us!” Denise was also raped by marines who placed their gloved fingers into her vagina and applied electric shocks to her genitals. Denise told Amnesty International that marines screamed at them ´You fucking lesbians.´

When, more than 30 hours after their arrest, the women were finally taken to a public prosecutor in the neighbouring state of Veracruz, Korina was pressured into signing a “confession” admitting to involvement in organized crime and drug offences. Denise was accused of the same crimes. When Korina told a Navy doctor what the marines had done to her, she told Amnesty International he said: “shut the fuck up, don’t say bullshit.” Both women reported the torture they suffered in front of a judge, but their allegations were later ignored by an appeals judge. The PGR opened an investigation into the torture allegedly carried out by marines and, four years later, official forensic doctors examined both women. A year after the examination, Denise and Korina still did not know the results. At the time of writing, both women remained in prison awaiting the outcome of their criminal trial. No marine has been charged in the case.

Mexico: Torture against women

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Topics

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- WOMEN AND GIRLS
- TORTURE AND OTHER ILL-TREATMENT
Tab. 16.
MAY
2016

REPORT ON HUMAN RIGHTS CONDITIONS OF
TRANSGENDER WOMEN IN MEXICO

Cornell University
Law School
LGBT Clinic

Transgender Law Center
INTRODUCTION

This report's purpose is to assess the country conditions in Mexico so that immigration judges and asylum officers can be fully informed about the issues facing transgender asylum applicants. This report examines whether recent legal reforms in Mexico have improved conditions for transgender women.¹ It finds that transgender women in Mexico still face pervasive discrimination, hatred, violence, police abuse, rape, torture, and vicious murder. These problems have actually worsened since same-sex marriage became available in the country in 2010. The report also suggests ways to improve the information about county conditions available to U.S. immigration judges and asylum officers so they can better adjudicate the asylum, withholding of removal, and Convention Against Torture claims of Mexican transgender women.

The Cornell Law School LGBT Clinic² and Transgender Law Center co-authored this report. The authors collected information for this report through news sources, academic research, expert witness testimony, and individual telephone interviews with advocates at non-governmental organizations (NGOs) in Mexico and the United States. Transgender Law Center, a national organization based in Oakland, California, works to change law, policy, and attitudes so that all people can live safely, authentically, and free from discrimination regardless of their gender identity or expression. Transgender Law Center provides legal assistance and information to transgender individuals and their families and engages in impact litigation and policy advocacy to advance transgender rights. The LGBT Clinic at Cornell Law School is one of only a handful of law school clinics in the United States dedicated to serving members of the lesbian, gay, bisexual, and transgender (LGBT) community.³ The clinic represents LGBT individuals in various legal matters and undertakes advocacy projects in conjunction with other LGBT organizations.
EXECUTIVE SUMMARY

Many transgender Mexican women seek asylum in the United States claiming that, because of their gender identity or expression, they will face rape, torture, or murder if they return to Mexico. In these cases, immigration judges and asylum officers must determine how likely it is that the asylum-seeker will face persecution if she is removed. Despite recent legal reforms in Mexico, legal advocates and individuals living in both Mexico and the U.S. report that rates of violence against transgender women are higher than ever. Specifically, violence against the LGBT community has actually increased since the recognition of same-sex marriage throughout Mexico because of backlash to these progressive changes in the law.

Despite the legal changes for same-sex couples in recent years, transgender women in Mexico still face pervasive persecution based on their gender identity and expression. Indeed, violence against LGBT people has actually increased, with transgender women bearing the brunt of this escalation. Changes in the laws have made the LGBT communities more visible to the public and more vulnerable to homophobic and transphobic violence. Increased visibility has actually increased public misperceptions and false stereotypes about the gay and transgender communities. This has produced fears about these communities, such as that being gay or transgender is “contagious” or that all transgender individuals are HIV positive. These fears have in turn led to hate crimes and murders of LGBT people, particularly transgender women.

Immigration judges in the United States often conflate the particular social groups of transgender women and gay men. Moreover, immigration judges sometimes give excessive weight to reports of minor societal advancements for gay communities in Mexico. Consequently, without thoroughly examining the actual conditions in Mexico for transgender women, immigration judges are not able to assess asylum cases fully and accurately.

The report recommends that information distinguishing between issues facing the gay and transgender communities be made available in Executive Office for Immigration Review (EOIR) materials. For example, the EOIR can update their training modules with information about the transgender community specifically, so that judges can fully understand the distinct issues facing transgender women. In addition, applicants and their advocates can provide documentation of anti-transgender abuse to ensure that judges understand the issues specific to this community and make more sound findings in asylum, withholding of removal, and Convention Against Torture cases.
Every year, thousands of Mexican citizens seek asylum or related forms of humanitarian relief in the United States. In 2012, U.S. immigration courts received 9,206 asylum applications from Mexican people. That year, only 126 Mexican applicants were granted asylum by the immigration courts while 1,395 cases were denied. The asylum office granted asylum to another 337 Mexican applicants. There are no statistics on how many of those Mexican asylum-seekers were transgender people seeking asylum because they feared persecution based on their gender identity.

An immigrant is eligible for asylum in the U.S. if she has a well-founded fear of persecution based on her “race, religion, nationality, membership in a particular social group, or political opinion.” The Board of Immigration Appeals (BIA) first recognized a gay man as a member of a “particular social group” in the 1990 In re Toboso-Alfonso case. The BIA found that “homosexuals” in Cuba constitute a particular social group. In 1994, the Attorney General designated the Toboso-Alfonso decision as “precedent in all proceedings involving the same issue or issues.” Since then, several courts of appeal have similarly recognized “homosexuals” as a particular social group.

In 2000, the Ninth Circuit Court of Appeals decided Hernandez-Montiel v. INS, finding that a transgender person from Mexico qualified for asylum as a member of a “particular social group.” But that decision did not refer to the applicant as transgender; the court instead called Hernandez-Montiel a “gay man with a female sexual identity.” Hernandez-Montiel had lived as a woman since the age of twelve, took female hormones, and identified as “a transsexual.” The immigration judge who initially decided Hernandez-Montiel’s case found her ineligible for asylum because he said she had not been persecuted on account of an “immutable” characteristic. Rather, the immigration judge found she could have chosen not to dress as a woman. On appeal, the Ninth Circuit found that Hernandez-Montiel’s identity as a “gay man with a female sexual identity” was either an “innate characteristic or one so fundamental to her identity or conscience that she either could not should not be required to change it.” The court therefore held that Hernandez-Montiel was persecuted on account of her membership in a particular social group.
Obviously the decision to recognize Hernandez-Montiel’s eligibility for asylum was positive, but by defining her particular social group as “gay men with female sexual identities,” the court misleadingly conflated transgender women with gay men.17 Some transgender women, including those from Mexico, may experience their gender identity and sexual orientation as interrelated in complex ways. Many transgender women who are attracted to men may go through a period of identifying as gay men, or being perceived by others as gay men, prior to coming out as transgender women. For some transgender women, the terms “gay” and “transgender” are not mutually exclusive categories, but overlapping, and they may use both terms to describe themselves. Regardless, when transgender women and feminine gay men face persecution, the root cause of both is likely the combination of cultural gender norms,18 misogyny in general and the particular vitriol targeted at people who express femininity despite being assigned a male sex at birth.

Nonetheless, it is important for adjudicators to be aware that sexual orientation and gender identity are distinct components of identity.19 Gender identity describes “each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body... and other expressions of gender, including dress, speech and mannerisms.”20 Sexual orientation, on the other hand, is “each person’s capacity for... sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.”21 Transgender women are as diverse in their sexual orientations as non-transgender women. They may identify as straight, lesbian, bisexual, queer, or any other sexual orientation.22

When asylum decisions refer to transgender women as gay men with female sexual identities,23 it is important to be aware that this may be an inaccurate and therefore disrespectful way of describing the individual’s gender identity. This inaccuracy can have serious and harmful consequences as it may contribute to misunderstandings regarding the deadly dangerous country conditions for transgender women in Mexico, as described below.

In 2015, in Avendano-Hernandez v. Lynch, a case of a transgender woman fleeing persecution and torture from Mexico, the Ninth Circuit recognized the error in conflating gender identity and sexual orientation and the harmful consequences of such a conflation.24 In denying Avendano-Hernandez’s claim, the BIA had primarily relied on Mexico’s passage of laws protecting the gay and lesbian community, in particular the passage of same-sex marriage laws in Mexico City. In overturning the BIA, the Ninth Circuit declared the relationship between gender identity and sexual orientation to be distinct, though sometimes overlapping, and criticized the BIA’s analysis as “fundamentally flawed because it mistakenly assumed that [ ] laws [protecting the gay and lesbian community] would also benefit Avendano-Hernandez, who faces unique challenges as a transgender woman.”25

The court’s decision is explicit that laws recognizing same-sex marriage do little to protect a transgender woman from discrimination, harassment and violent attacks in daily life in Mexico.26 The court also recognized that paradoxically, the passage of laws protecting the LGBT community in Mexico has actually worsened conditions for
the LGBT community as the public and authorities react to expressions of sexual orientation and gender identity that the culture fears.27

The court ultimately granted Avendano-Hernandez relief on the record, reasoning that transgender persons in Mexico are particularly visible and vulnerable to harassment and persecution due to their public nonconformance with gender roles, that the Mexican police specifically target the transgender community for extortion and sexual favors, that there is an epidemic of unsolved violent crimes against transgender persons in Mexico, that Mexico has one of the highest documented numbers of transgender murders in the world, and that Avendano-Hernandez, who takes female hormones and dresses as a woman, is a conspicuous target for harassment and abuse.28

In order to establish her eligibility for asylum, an applicant must demonstrate that there is at least a 10% chance that she will experience harm that rises to the level of persecution.29 If she can show that she was persecuted in the past, the applicant will be presumed to have a well-founded fear of future persecution unless country conditions have so improved as to negate her fear.30 The persecution need not be inflicted by government officials; harm inflicted by private actors can also constitute persecution if the government is unable or unwilling to prevent it.31 But in cases where a non-state actor is the persecutor, the asylum-seeker must show that she cannot avoid harm by moving to another region of the country.32

Generally, an applicant can only obtain asylum if she applies within one year of her last entry into the United States.33 Unfortunately, the one-year deadline prevents many bona fide refugees from qualifying for asylum relief.34 The only exceptions are granted when an applicant can show that a “changed circumstance” or “extraordinary circumstances” justified the delay in filing.35 There is no exhaustive list of what might constitute changed or extraordinary circumstances, but serious mental illness or being an unaccompanied child have qualified as “extraordinary circumstances,”36 and a recent HIV diagnosis, recently coming out as transgender, or progressing in one’s transition can qualify as a “changed circumstance” justifying a late asylum application.37 Even if an applicant can show that she faced changed or extraordinary circumstances, she still must apply for asylum within a “reasonable” period of time.38

Applicants can seek asylum “affirmatively” by submitting an application to the United States Citizenship and Immigration Services (USCIS) if they are not in removal proceedings.39 Immigrants who are in removal proceedings before an immigration court must apply for humanitarian relief “defensively” by requesting asylum in the court proceeding.40 People in removal proceedings can also apply for withholding of removal or relief under the Convention Against Torture (CAT).41 These related forms of relief have higher burdens of proof and offer less protection than asylum, but they may be the only relief available to applicants who entered the U.S. more than one year from the time that they want to file for asylum and do not qualify for an exception to the one-year deadline42 or for those with criminal convictions that bar asylum relief.43 Being granted withholding of removal or relief under CAT protects the recipient from removal to the country where she would face persecution or torture, but it does not lead to permanent residency or citizenship.44
There is no time limit for applying for these forms of relief. An immigration judge must grant withholding of removal if the applicant is found to have a “clear probability of persecution in his or her country of origin, based on race, religion, nationality, membership in a particular social group, or political opinion,” provided no mandatory bars apply. Immigrants in removal proceedings can receive relief from removal under the CAT if it is “more likely than not” that they will be tortured if removed from the United States. Applicants can qualify for CAT relief even when their criminal convictions bar them from withholding of removal and asylum.
LAWS AIMED AT PROTECTING LGBT PEOPLE IN MEXICO

THE LGBT COMMUNITY IN MEXICO

Mexico is a federal republic composed of thirty-one states and the Federal District of Mexico City. As of 2015, it has a population of approximately 121 million citizens.\(^47\) Although there have been some prevalence-based studies attempting to assess the number of LGBT people in other countries,\(^48\) there have been no federal population-based surveys, federal censuses, or national research studies assessing the LGBT population in Mexico. As a result, it is impossible to know the size of the Mexican LGBT community.

There are few population-based data sources that estimate the number of transgender people in any country.\(^49\) Those that do exist suggest that transgender people constitute 0.1% to 0.5% of the overall population.\(^50\) As such, transgender women likely constitute a small minority even within the Mexican LGBT community. Gathering data about the Mexican LGBT community is hampered by the fact that many individuals are reluctant to reveal their sexual orientation or gender identity because they fear harassment, violence, assault, and other negative societal consequences that may follow from such a disclosure.

LIMITED ANTIDISCRIMINATION LAWS

Mexico has enacted antidiscrimination laws that forbid discrimination on the basis of sexual orientation at the federal level. In 2003, the Federal Congress passed the “Federal Law to Prevent and Eliminate Discrimination” that includes “sexual preference” as a protected category. The law defines discrimination as:

\[
\text{Every distinction, exclusion or restriction based on ethnic or national origin, sex, age, disability, social or economic status, health, pregnancy, language, religion, opinion, sexual preferences, civil status or any other, that impedes recognition or enjoyment of rights and real equality in terms of opportunities for people.}^{51}
\]

Article 9 of the law defines “discriminatory behavior” as:

\[
\text{Impeding access to public or private education; prohibiting free choice of employment, restricting access, permanency or promotion in employment; denying or restricting information on reproductive rights; denying medical services; impeding participation in civil, political or any other kind of organizations; impeding the exercise of property rights; offending, ridiculing or promoting violence through messages and images displayed in communications media; impeding access to social security and its benefits; impeding access to any public service or}
\]

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private institution providing services to the public; limiting freedom of movement; exploiting or treating in an abusive or degrading way; restricting participation in sports, recreation or cultural activities; incitement to hatred, violence, rejection, ridicule, defamation, slander, persecution or exclusion; promoting or indulging in physical or psychological abuse based on physical appearance or dress, talk, mannerisms or for openly acknowledging one’s sexual preferences.  

Various state laws also prohibit anti-gay discrimination. It is important to note, however, that there are no federal laws that explicitly protect transgender individuals from discrimination on the basis of their gender identity (i.e., their transgender status) as opposed to sexual orientation. Mexico has also enacted legislation to protect women generally from gender-based violence. But transgender women are not explicitly included in this legislation either.

The National Council to Prevent Discrimination (CONAPRED) was created by the 2003 Federal Law to Prevent and Eliminate Discrimination. The agency is tasked with promoting policies and measures that contribute to cultural and social development, while advancing social inclusion. People who suffer discrimination committed by private individuals or by federal authorities can file a complaint with CONAPRED. When an aggrieved person files a complaint, the Council undertakes a settlement process between the parties. If they do not reach an agreement, CONAPRED can undertake an independent investigation. If it determines that human rights violations have been committed, it can order restitution measures including financial compensation, a public reprimand of the offender, a public or private apology, and a vow from the offender to never repeat the act. About 60% of cases filed regarding sexual orientation discrimination in 2009-10 were resolved by conciliation. In 2010 CONAPRED forwarded 53 complaint files about anti-gay discrimination to the Public Ministry, which found them to be unlawful discrimination.

Despite the existence of these formal protections around sexual orientation, advocates maintain that these laws have not prevented discrimination and violence. LGBT individuals face many barriers in exercising their rights under the antidiscrimination statutes. LGBT individuals who experience discrimination may be afraid to disclose their sexual orientation or gender identity to a federal agency and may be concerned about potential retaliation by public officials. This concern is especially relevant since the law does not have a clear enforcement mechanism or any provision that protects against retaliation.

The adoption of the antidiscrimination laws is certainly a positive step, but it is far from clear that their enactment has actually led to an improvement in the treatment of LGBT people generally or transgender women in particular. For example, although Mexico City has an agency charged with receiving discrimination complaints, from January 2012 to April 2013 the agency had received only one official complaint of human rights abuse against a transgender individual. During the same period there were at least eight violent murders of transgender women in Mexico City. In fact, despite having the greatest number of legal reforms for and businesses catering to
non-transgender gay people in the country, Mexico City “has the highest total” number of “homicides of LGBT people due to homophobia or transphobia.”

The absence of any complaints is likely due to the myriad reasons transgender women do not report when they are victims of discrimination or hate crimes: concerns about disclosing sexual orientation or gender identity, fears of retaliation, lack of confidence in national agencies, a long history of corruption in Mexican investigative agencies, and doubts about the agency’s ability to investigate and remedy these violations.

As noted, federal antidiscrimination laws only provide explicit protections based on sexual orientation and do not protect against gender identity discrimination. Moreover, these federal antidiscrimination laws do not protect transgender communities from persecution because the Mexican government is unable to enforce them, especially because the police themselves are often the perpetrators of violence against transgender people. Transgender women victimized by such violence are also unlikely to report the crimes because they fear retaliation from police or believe police will not accurately investigate their claims.

LIMITED SAME-SEX RELATIONSHIP RECOGNITION

Mexico has also adopted laws granting rights to people in same-sex relationships. In 2006, Mexico City’s legislature approved the “Ley de Sociedades de Convivencia” (Law Regarding Cohabitation Partnerships) which allowed civil unions between same-sex couples. On December 21, 2009, the Legislative Assembly approved legislation allowing same-sex marriage in Mexico City. The bill changed the definition of marriage in the city’s Civil Code from “a free union between a man and a woman” to "a free union between two people." The law also allows same-sex couples to adopt children, apply jointly for bank loans, inherit from one another, and be included in spousal insurance policies. In August 2010, the Mexican Supreme Court held that same-sex marriages registered in Mexico City must be recognized in all of Mexico. In July 2015, the Mexican Supreme Court released a “jurisprudential thesis” that effectively legalized same-sex marriage in all thirty-one states in Mexico.

However, formal statutory advances for same-sex couples in Mexico have not reduced persecution against transgender women. In fact, as discussed in more detail later in this report, transgender women have borne the brunt of a violent backlash against same-sex marriage and other such advances. They are at a particularly intensified risk of persecution both because they are often imputed to be gay men and because they are vilified, stigmatized, and brutalized for being transgender women. This increased vulnerability also occurs because transgender women “may be more visible [and] viewed as more transgressive of social norms.”

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NAME CHANGE RIGHTS

Mexico City has created some avenues for transgender people to conform their identity documents to their gender identity. In 2004, Mexico City amended its Civil Code to permit an individual to change the name and gender marker on their birth certificate. Specifically, the Mexico City Civil Code was amended to allow modification of a person’s birth certificate “upon request to change a name or any other essential data affecting a person’s civil status, filiations, nationality, sex and identity.” In 2014, Mexico City also passed a law that permits transgender individuals to legally change their gender without a court order.

LACK OF LEGAL PROTECTIONS FOR TRANSGENDER PEOPLE

As described earlier, transgender women have limited formal legal protections in Mexico against discrimination and hate crimes. Only Mexico City has an antidiscrimination law that explicitly protects against gender identity discrimination. Other protections that exist exclusively in Mexico City include name changes, legal recognition of gender changes, and specialized healthcare for transgender people. Transgender women continue to experience pervasive discrimination in public and in their private lives. Even a representative of CONAPRED stated that “tolerance towards groups such as homosexuals is still ‘practically the same’ even after the State [Mexico] recognized their rights.” The 2013 U.S. State Department Human Rights Report on Mexico stated that “discrimination based on sexual orientation and gender identity was prevalent[...].” It also noted that “the government did not always investigate and punish those complicit in abuses.”

Transgender women often do not report hate crimes or police abuse because the authorities rarely investigate these crimes. When the police do get involved, they frequently minimize the crime and mischaracterize it. For example, in violent murder cases the police usually determine that the cases are “crimes of passion” instead of hate crimes. Holding police and military abusers accountable is also difficult. The process for punishing the police and military is “extremely slow and inadequate.” Transgender women avoid reporting police abuse out of fear of police retaliation against them or their family members. Further, human rights commissions tend to be anti-LGBT and will often disregard complaints by transgender women. Transgender women cannot depend on inadequate and ineffective laws penalizing hate crimes to protect their rights.

MORALITY LAWS

Some Mexican communities have explicitly targeted transgender women by enacting morality laws that criminalize “cross-dressing.” In 2002, the city of Tecate, Mexico amended its Police and Good Governance Code to prohibit “men dressed as women in public spaces.” This revision “was coded in terms of infractions against morality.” Upon passing the law, the mayor of Tecate stated that Town Hall officials and the majority of the population supported it. A coalition across the political spectrum spoke out in favor of the morality law.
Supporters stated that Tecate’s prohibition of gender nonconformity was needed to protect against social disturbance; they regarded “cross-dressing” as a threat to order, morality, harmony, mutual respect, and children. They implied transgender women were pedophiles. In explaining his support for the law, counsel advisor José Luis Rojo claimed that transgender women disrupt the public peace and “take advantage of children.” A senior councilman, Cozme Casares, added that he and others supported the measure because they believed it would prevent the spread of AIDS and sex work.

Local transgender women reported a dramatic increase in police harassment following the law’s passage. A woman named Gabriela reported that a police officer had “pulled [her] out of the doorway of a pool hall by her hair.” Transgender women were frequently accused of being involved in sex work, even when they were simply running errands like going to buy milk. Transgender women stopped by the police frequently faced extortion; “[t]he police used… the threat of arrest… to secure money or sexual favors from [transgender women].” The passage of morality laws like those in Tecate criminalizes transgender women and sanctions police harassment and private discrimination. The passage and retention of these laws reflect continued societal hostility towards transgender people.
EXPANSION OF LGBT RIGHTS HAS LED TO BACKLASH

Violence and discrimination against the LGBT community remains pervasive throughout Mexico. Legal recognition of same-sex couples has increased societal awareness of the LGBT community and made LGBT people much more visible. Ironically, increased awareness of LGBT people appears to have produced significant backlash.

VIOLENCE AGAINST TRANSGENDER WOMEN

In order to win asylum, an applicant must show she has a well-founded fear of persecution either from state actors or from private parties that the government is unwilling or unable to control. Even if Mexico’s prohibition of anti-gay discrimination and enactment of some formal protections for same-sex couples could be read to indicate that certain authorities are willing to prevent anti-gay abuse (or, more accurately, that they are willing to pay lip service to the notion of protecting LGBT people), it does not necessarily mean that the Mexican government is able to protect LGBT people generally or transgender women specifically from the horrific violence they face. In fact, many transgender women face violence from government actors themselves, often in the form of abuse from police and harassment by the military.

Since Mexico recognized same-sex marriage in 2010, several prominent advocates in the transgender community have been brutally murdered. Many of these killings occurred in Mexico City, despite its adoption of a hate crimes statute and antidiscrimination laws. In 2010, a Mexican National Survey about discrimination found that 83.4% of LGBT Mexicans had faced discrimination because of their “sexual preference.” In 2011, the same survey reported the principal basis of discrimination was “sexual preference.” In 2012, however, “gender identity” was the most frequent basis for discrimination, showing the growing rates of discrimination against the transgender community. It is clear that the Mexican government is unable to effectively protect transgender women.

Figure 2a

Transphobic Murders (2008 - 2013)

<table>
<thead>
<tr>
<th>Year</th>
<th>Murders</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>4</td>
</tr>
<tr>
<td>2009</td>
<td>9</td>
</tr>
<tr>
<td>2010</td>
<td>14</td>
</tr>
<tr>
<td>2011</td>
<td>33</td>
</tr>
<tr>
<td>2012</td>
<td>46</td>
</tr>
<tr>
<td>2013</td>
<td>35</td>
</tr>
</tbody>
</table>

Total Murders Since Same-Sex Marriage Law: 120
Transgender women regularly experience harassment and hate crimes at the hands of members of the public. The following are only a few examples of the many atrocities that transgender women have experienced in Mexico. A prosecutor in Chihuahua belittled a transgender woman who sought redress for abuse and violence she experienced, asking her, “So why are you walking in the streets?” In November 2011 in Chihuahua, a group of men kidnapped two transgender women in Hotel Carmen. Days later, the dismembered bodies of these women were found in a van. In June 2012 in Mexico City, the body of a transgender woman was dismembered. Her remains were found abandoned in different neighborhoods in the Benito Juarez district. In June 2013, police found the body of the transgender woman who headed the Special Unit for Attention to Members of the Lesbian, Gay, Bisexual, Transsexual, Transgender, Transsexual and Intersex (LGBTITTI) Community of the Attorney General of the Federal District (PGJDF). In July 2013, two attackers released pepper spray into a crowd of 500 at a beauty contest for transgender women.

Mexico has the second-highest index of crimes motivated by transphobia in Latin America, behind Brazil. Reports of hate crimes—particularly transphobic murders—continue to rise, including in Mexico City. Most hate crimes against the LGBT community go uninvestigated. In many instances, police dismiss investigations of homophobic and transphobic murders by categorizing them as “crimes of passion.” Indeed, it is estimated that almost 90% of crimes in Mexico go unreported. It follows then that the actual number of transphobic murders in Mexico is likely much higher.

It is also critical to note that all members of the LGBT community are not similarly situated when it comes to homophobic and transphobic violence and persecution. In fact, some LGBT people are far more vulnerable than others. Transgender women are particularly likely to be singled out for abuse. Even in the United States, transgender people report far higher rates of violence and mistreatment than non-transgender lesbians and gay men. In Mexico, transgender people are “heavily stigmatized and discriminated against, even by members of the gay community.” It is therefore important to avoid erroneously conflating the experiences of non-

Figure 2b

Geographical depiction of transphobic murders in Mexico between 2008 and 2013. Note that many have occurred close to Mexico City (Distrito Federal).
transgender lesbian and gay people with those of transgender women. For example, in *Lopez-Berera v. Holder*, the BIA affirmed the denial of asylum to an HIV-positive transgender woman from Mexico, inappropriately relying on dicta from a case about healthcare access for gay men.\textsuperscript{115} On appeal, the government filed an unopposed motion to remand the case to the BIA for reconsideration.\textsuperscript{116} Adjudicators must always examine evidence for the particular social group of transgender women and not deny asylum based on modest improvements in legal rights for non-transgender gay people.

In 2011, the year following the implementation of same-sex marriage across the country, there were more hate crimes against transgender people than in any year in recent history.\textsuperscript{117} Activists were particular targets of this backlash.\textsuperscript{118} On May 3, 2011, an LGBT activist named Quetzalcoatl Leija Herrera was found beaten to death.\textsuperscript{119} In July 2011, Cristian Ivan Sanchez Venancio, a member of the Revolutionary Democratic Party’s Coordinating Group for Sexual Diversity and an organizer of Mexico City’s annual LGBT Pride march, was found stabbed to death.\textsuperscript{120} On July 6, 2011, men in two vehicles opened fire on a group of transgender women in Chihuahua killing one and wounding several.\textsuperscript{121} In the state of Veracruz, activists noted that not only were LGBT people being killed at a high rate in 2011, but they were also increasingly being tortured before their deaths.\textsuperscript{122} On August 18, 2012, a transgender woman was found dead on the street in a suburb of Mexico City. She had been beaten horribly and then decapitated.\textsuperscript{123}

\begin{figure}
\centering
\includegraphics[width=\textwidth]{figure3.png}
\caption{164 Assassinations in 27 States (2007 - 2012)}
\end{figure}

Of the transphobic murders between 2007 and 2012, many took place in Mexico City (DF), where the city has enacted same-sex marriage laws and laws allowing transgender individuals to change the gender markers on their birth certificates.\textsuperscript{124}
RECENT TRANSPHOBIC MURDERS OF PROMINENT TRANSGENDER WOMEN

"The paradox is that as the LGBT community makes these advances in Latin America, there appears to be higher levels of violence against them . . . . It seems to be a backlash and may be due to the greater visibility of LGBT communities. In a sense, the violence is a symptom of the achievements made by the movement."125

Barbara Lopez Lezama126
Ms. Lezama was murdered on April 30, 2011. The assailant strangled her with a cord and inflicted blunt force trauma to her head. She was 24 years old. Barbara worked as a stylist and enjoyed knitting. Barbara was also active in the community: she worked with street children and those who were living with HIV/AIDS.

Agnes Torres Sulca127
Ms. Torres Sulca was found murdered in a ditch outside of Puebla on March 12, 2012. Her throat had been slashed and there were several burn marks across her body. Ms. Torres Sulca was a 28-year-old psychologist and educator and is remembered as an activist and ardent defender of human rights in Mexico’s LBGT community. Authorities closed her case in three weeks without identifying the perpetrator.

Hilary Molina Mendiola128
Ms. Mendiola was murdered on September 23, 2013 in Mexico City. She was pulled from a vehicle and thrown off a bridge by two men.

Virgen Castro Carrillo129
Ms. Carrillo, a 30-year-old transgender woman, was murdered sometime between March 19 and March 21, 2009. Ms. Carrillo was from Sinaloa, Mexico. Her body was found in the Tamazula River. After conducting an investigation, police suspected that a man killed Ms. Carrillo for being transgender and then threw her body into the river.

Fernanda Valle130
On June 19, 2010, Fernanda Valle, the Vice President of Transgénero Hidalgo (Transgender Hidalgo) “disappeared.” Ms. Valle’s body was eventually found tied up and tortured with two bullets in the head. The President of Transgénero Hidalgo, Karen Quintero, demanded a full investigation, but the Hidalgo authorities did not adequately investigate the crime.
POLICE VIOLENCE

Transgender women in Mexico face brutal violence not only from private citizens, but also from state officials. Police officers and the military subject transgender women to arrest, extortion, and physical abuse. Many transgender women have been victims of police violence or know someone who has been a victim. According to Victor Clark, professor at San Diego State University and the director of the Binational Center for Human Rights in Tijuana, Mexico, the police and military are the “primary predators” targeting transgender women. Mexican police target transgender women and arbitrarily arrest them for pretextual reasons such as “disturbing the peace” because they were wearing female clothing; for being perceived to be sex workers even if they were not; for failing to carry a valid health card; for allegedly carrying drugs; or for being said to be gay.

For example, in March 2014, police officers in Chihuahua, Mexico arrested five transgender women for not carrying a health card, even though this is not a crime. At the police station, male police officers forced the transgender women to undress in front of them. The police then illegally forced the women to take HIV tests. The police held the transgender women in jail for 36 hours and demanded 200 pesos from each woman for release.

For decades the Mexican police forces have been implicated in cases of arbitrary detention, torture, and other human rights violations that are often unpunished. Police officers often extort transgender women for sex or money in return for not arresting them or for releasing them from jail. Many transgender women have to pay almost daily bribes to avoid being arrested. A 2010 study by the National Council for the Prevention of Discrimination (Consejo Nacional Para Prevenir la Discriminación) reported that 42.8% of LGBT interviewees indicated that the police are “intolerant” of sexual minorities. In a 2008 study by Mexico City’s Human Rights Commission, 11% of LGBT persons reported experiencing threats, extortion, or arrest by police because of their sexual orientation.

A transgender woman in Tijuana, Mexico, reported the police abuse she suffered after being arrested to the Binational Center for Human Rights in Tijuana: “I was working as a sex worker, talking with a client, [when] the municipal police arrived and asked me for my identification documents. Everything was in check, [but] they [the police] accused me of being outside of the area [sex work tolerance zone] and arrested me, handcuffed me, and took me to a municipal judge. The police talked with the judge in codes and took me to the 20 [municipal jail]. They [the police] put me in a cell with 20 men all of whom were mocking me. I paid 600 pesos to the guards to not undress me.”

MILITARY VIOLENCE

The military in Mexico continues to commit human rights violations against the civilian population across the country, including against transgender women. Former president Felipe Calderon (2006-2012) waged a “War on Drugs” and ordered the
military to combat drug cartels and organized crime. However, instead of ensuring peace for civilians, the military has itself inflicted harm in areas of increased militarization. Soldiers assigned to policing and public security tasks often lack sufficient training to properly take on law enforcement roles. Often, soldiers operate under militarized rules of engagement and use of force that increases the likelihood of mistreatment of civilians.

Transgender women were already visible targets for police and military abuse, but once increased militarization began under Calderon, transgender women suffered increased aggression. Military troops engage in the same abuses as the police by making transgender women the object of arbitrary arrests, beatings, extortions, and robberies. In May 2007, for example, members of the Military Police beat approximately 40 transgender women in Ciudad Juarez, leaving them hospitalized and in serious condition.

Mercedes Fernandez, president of the Chihuahua Lesbian Gay Movement, described conditions for transgender women who face military persecution: “They [transgender women] can’t even go and buy their groceries because they are immediately transferred to the authorities where they are accused of engaging in prostitution. They take them away even if they are holding their grocery bags. They don’t have liberty of movement.”

Human rights violations by the military continue under the current president Enrique Peña Nieto, who took office in 2012. Like the police, the military is rarely punished for the abuses reported by transgender women. Further, the military command structure prevents accountability for abuses. The government instead punishes the victims of military violence by accusing them of criminal acts and blaming the victims for the harms they suffered at the hands of the military.

DRUG CARTEL AND GANG VIOLENCE

In 2012, drug cartels and gangs were responsible for the vast majority of killings and abductions in Mexico. In July 2013 the government reported that, of 869 victims of homicides related to organized crime in the previous month, 830 were themselves allegedly responsible for crimes.

Police often work with the cartels and gangs, with 98% of all crimes going unpunished. Vulnerable communities, including transgender women, are often victims of drug cartel and gang violence. Transgender women fall victim to cartel kidnappings, extortions, and human trafficking. One transgender woman described how cartel members forced her into sex work in Merida. Another transgender woman
was targeted for rape and robbery while traveling by bus. In another case, a transgender woman named Joahana in Cancun was tortured to death by drug traffickers who carved a letter “Z” for the Zeta cartel into her body. If a cartel targets a transgender woman, it is nearly impossible to escape the cartel’s power. An immigration attorney in the U.S. described in an interview how his transgender female client unknowingly dated a cartel member. After doing so, she could not escape persecution from the cartel.

LINKS BETWEEN MEXICAN GOVERNMENT, POLICE AND ORGANIZED CRIME

The Mexican government and cartels have been linked numerous times to incidents involving human rights violations, and cartels have been revealed to be successfully infiltrating police and military forces. In 2009, three officers from the Attorney General’s Organized Crime Investigations Unit (SIEDO) along with ten soldiers were arrested for their ties to organized crime, with the acknowledgment that there were still many officers with probable ties to cartels. Other officials with ties to organized crime include Héctor Santos Saucedo, then-head of Coahuila’s state investigations, who was connected to the notorious Zetas in 2010. Occasionally the extent of the connection is not revealed until years later, such as with the San Fernando massacres carried out in Tamaulipas in 2010-11. In 2014 a freedom of information request revealed there were “direct links between the San Fernando police, the Zetas and the San Fernando killings.”

The disappearance of 43 students from Ayotzinapa in 2014 and their parents’ subsequent refusal to accept the half-answers from the government have put a spotlight on the connection between police and organized crime. The first reports indicated that the students were seized by local police acting on orders from the corrupt mayor of Iguala and then turned over to a local drug gang; however further information has begun to indicate that federal police were likely involved in the incident. Transgender women, who already find themselves to be targeted by police and cartels separately, are even less likely to report any discrimination or violence they experience if they risk being targeted by the organizations that they are reporting against.
SOCIETAL FACTORS THAT LEAD TO VIOLENCE AGAINST TRANSGENDER WOMEN

“To society, I am not a person. To society, I am trash—do you understand?”
– Anonymous transgender woman in Mexico.164

Negative attitudes towards the LGBT community remain very common in Mexico.165 Homophobic and transphobic comments from public figures, such as former President Felipe Calderon, diminish the quality and dignity of transgender women’s lives by perpetuating widespread hatred and violence.166 There is also a nationwide backlash against advances in LGBT rights, resulting in increased levels of persecution against transgender women who tend to be the most visible and marginalized members of the LGBT community.167

FAMILY REJECTION

Many transgender women face abuse and rejection at the hands of their own families. The abuse ranges from physical, verbal, and sexual attacks to murder.168 A recent survey of transgender women in Mexico City found that 45% had experienced abuse from their families.169 As many as 70% transgender women and girls in Latin America are estimated to run away from or be thrown out of their homes.170 The consequences of such family rejection include psychological trauma and emotional suffering, which often lead to mental health problems, suicide attempts, failure to complete education, and unemployment.171

A transgender woman named Yokanza Martinez Balez of Puebla described the rejection she faced after her transition in an interview with a journalist.172 Ms. Martinez Balez began living as a woman at the age of 15. Her family forced her to leave home. She dropped out of high school, migrated north to Sonora, and became a sex worker.173

Another transgender woman, Gaby Morales Arellano, was forced by her parents to leave home shortly after she began transitioning to live as a woman.174 Her dreams of becoming a lawyer ended because she had to take whatever job she could to survive.175 She explained, “There is a lot of discrimination when you come out of the closet and you face all of these critics, first your family and your neighbors who say, ‘Why is he like that? He should be normal.’ My family thought they could beat me and correct me.”176

Another Mexican transgender woman who fled to the United States and sought asylum did so to escape severe physical and mental abuse from both her family and her community. She had sought help from the police in Mexico, but they ignored her pleas for protection. Without protection from her family or the police, gang members beat her severely and left her bleeding from head wounds. Fearing for her life, she fled to the United States, where she was able to receive asylum.177
GENDER-BASED VIOLENCE

Violence against women is very prevalent in Mexico, particularly in the forms of domestic violence and murders (femicide). According to a 2012 report by the Mexican Secretary of State, the number of female murder victims increased dramatically over the previous three years, particularly in the states of Chiapas, Chihuahua, Durango, Guerrero, Michoacan, Oaxaca, Sinaloa, Sonora, and the Federal District. While Mexico has enacted statutes criminalizing domestic violence and femicide, their rates remain high. In a 2012 study, researchers reported that 67% of Mexican women had been the target of a crime. Despite the government’s effort to eliminate violence against women by enacting these protective laws, women continue to be subjected to violence and femicide at staggering rates.

Violence against non-transgender women is relevant to assessing conditions for transgender women because both populations experience high rates of gender-based violence that the Mexican government has been unable to control or prevent. Indeed, the overwhelming number of non-transgender women being murdered in Mexico has drawn the attention of many academics and human rights activists. Some commentators have pointed to social attitudes regarding gender roles as a factor contributing to the high rates of violence against women generally, gay and bisexual men, and transgender women.

RELIGION

According to the 2010 Mexican Census, approximately 83% of citizens identify themselves as Roman Catholic. Obviously, Catholic individuals hold diverse beliefs, but the Catholic Church hierarchy in Mexico has historically failed to support increased rights for women and has actively campaigned against rights for LGBT people. The Church has taken a particularly vocal stance against same-sex marriage. Even though same-sex marriage does not directly benefit transgender women, as noted elsewhere in this report, the backlash against the legal recognition of same-sex marriage has greatly increased rates of discrimination and persecution against transgender individuals.

Although non-Catholic Christian churches make up on a small number of the total churches in Mexico, there are still areas of the country in which they are becoming very influential. The first half of the century saw the majority of converts located in urban areas, but gradually this has shifted to rural, poorer, and indigenous communities. These populations are often Jehovah’s Witnesses or members of the Church of Jesus Christ of Latter-day Saints, whose views of LGBT individuals are comparable to that of the Catholic Church; as a result, transgender people often face similar levels of discrimination and persecution from members of those churches as well.

Many religious leaders in Mexico have expressed opposition to LGBT rights. For example, Cardinal Javier Lozano Barragán denounced same-sex marriage, saying it would be like considering “cockroaches” part of a family. After the passage of
Mexico City’s same-sex marriage law, the Archbishop of Mexico City, Cardinal Norberto Rivera Carrera, declared that same-sex marriage is one of Mexico’s leading problems along with violence, poverty, and unemployment. Such publicly stated views by prominent figures in the Mexican Catholic Church hierarchy likely contribute to the pervasive anti-LGBT views in Mexican society, given that many Mexican Catholics respect and follow the Church’s teachings.

**ECONOMIC MARGINALIZATION**

Mexico’s federal antidiscrimination laws do not prohibit discrimination on the basis of gender identity. The lack of protection leaves transgender women especially vulnerable to employment discrimination. As a consequence, few legal employment opportunities exist for transgender women. Approximately one out of three gay people in Mexico report that they must remain “in the closet” to avoid being fired from their jobs. But for many transgender women—who largely lack access to gender-confirming health care due to high costs, and are generally denied the ability to change the name and/or gender on ID documents to match their gender presentation—it may be difficult or impossible to hide their transgender status, despite the economic penalty that brings. A fortunate few can work as hairstylists or perhaps open a salon if they have enough money or family support. But many transgender women face such socioeconomic marginalization that they must turn to sex work to survive. This results in yet more violence and persecution from both community members and police.

Mexico City prohibits gender identity discrimination and provides a legal mechanism for name and gender changes, but even there, in practice, transgender women still endure rampant employment discrimination. The Coordinating Committee for the Development of Diagnosis and Human Rights Program of the Federal District found that despite formal legal protections, transgender women in Mexico City are still discriminated against and denied their labor rights.

**LACK OF GENDER-CONFORMING IDENTITY DOCUMENTS**

As noted, only Mexico City permits transgender people to legally change their name and gender to correspond to their gender identity. Even where such mechanisms are technically available, however, legal name changes are not accessible in practice for many transgender women. This is in part due to “lengthy delays and high costs—at least six months and approximately 70,000 pesos [approximately
$7,000 USD] are required, and completion sometimes depend[s] on the ‘good will’ of some civil servants.” Without the ability to obtain a legal name change, transgender women cannot obtain a national voter identification card with a name that reflects their female gender identity. The voter identification card is Mexico’s preferred identification card. It is necessary for exercising the right to vote, to acquire property, and to obtain medical assistance in a public hospital. Being forced to present a voter identification card with an old “male” name on it makes transgender women even more vulnerable to discrimination, abuse, and violence.

LACK OF ADEQUATE HEALTH CARE

Transgender women lack adequate health care in Mexico. Many transgender women resist seeking medical help because they must disclose their transgender status and subsequently face hostility and threats of violence from medical providers. Medical care providers often do not want to provide medical attention to transgender patients.Providers have mocked and humiliated transgender patients using offensive language, threats, aggression, and hostility. Consequently, transgender women do not routinely access preventive or emergency care.

In particular, medical care to support gender transition—such as hormones or surgeries—is almost entirely unavailable to most transgender women in Mexico. While medical authorities uniformly recognize the medical necessity of transition-related treatment, such care is not covered under Mexico’s national health plan and licensed providers (for those who can afford to pay out of pocket) are scarce. Even where it is available, such care can be prohibitively expensive for transgender women already suffering the effects of economic marginalization discussed earlier. Without access to gender-affirming medical care, many transgender women permanently damage their skin and muscles by injecting dangerous black-market feminizing liquid silicone or other fillers.

PREVALENCE OF AND LACK OF TREATMENT FOR HIV/AIDS

Transgender women are also largely denied access to adequate healthcare for other life-threatening conditions, such as HIV/AIDS. In Latin America, transgender women face the highest prevalence of HIV of any group, with a 35% infection rate. Mexico City has the highest number of documented HIV cases in all of Mexico. Despite these high infection rates, medical treatment for HIV and AIDS is largely unavailable in less urban areas due to prohibitive costs. Even in urban areas that have free antiretroviral drugs available they are usually reserved for the sickest people. Many in Mexican society hold misconceptions about the LGBT community and HIV that further contribute to the widespread stigma associated with both HIV and LGBT people. A national survey found that 59% of Mexicans believe that HIV/AIDS is caused by homosexuality. These misconceptions and stigma exist even among medical providers. In fact, most hospitals view homosexuality as a risk factor for HIV and often discriminate against those who do seek treatment. The Commission on Human Rights in Mexico City (CDHDF) also reported that HIV/AIDS clinics often actively mistreat and discriminate against transgender people living with HIV/AIDS.
EVALUATING ASYLUM CLAIMS MADE BY MEXICAN TRANSGENDER WOMEN

“I would rather die than live that life. It’s like living in hell. Here I feel like I’m in my refuge, at home. ... Here I feel like a person.” – Anonymous Mexican transgender woman in the United States

When a transgender woman seeks asylum in the United States because she fears persecution in Mexico, an asylum officer or immigration judge must decide whether she qualifies for asylum or any other humanitarian relief. These determinations are extremely difficult to make, since asylum claims by their nature involve events in a foreign country. Frequently there are no available witnesses to the incidents other than the survivor herself. Immigration judges therefore have no choice but to render life or death decisions on the basis of limited information. It is therefore critical that adjudicators consider information that accurately reflects the reality of life in Mexico for transgender women.

Unfortunately, a number of misperceptions exist about the conditions for LGBT people, particularly transgender women, in Mexico. Since inaccurate information about country conditions has the potential to compromise the adjudication of asylum claims, it is essential to examine common tropes carefully to determine whether they are accurate. Additionally, it is vital for adjudicators to remember that transgender women in Mexico make up a particular social group that is distinct from gay men (though transgender women are frequently mistaken for feminine gay men). While conditions related to LGBT Mexicans generally may be relevant, adjudicators must address evidence that specifically relates to persecution of the particular social group at issue, transgender women in Mexico. The importance of not conflating the social group of transgender women with other potentially less persecuted members of the LGBT community is equally true in the contexts of transgender asylum seekers from countries other than Mexico.

THE EFFECT OF SAME-SEX MARRIAGE AND ANTI-DISCRIMINATION LAWS ON VIOLENCE

As noted above, Mexico began recognizing same-sex marriages throughout the country in 2011. Recently enacted laws also prohibit discrimination on the basis of “sexual preference,” and Mexico City law also prohibits gender identity discrimination. Based on these changes in the law, some immigration judges have mistakenly concluded that LGBT people no longer face homophobic and transphobic violence in Mexico. Instead, the advances in LGBT rights has caused a nationwide backlash from those who oppose the changes, resulting in increased levels of persecution against transgender women who tend to be the most visible and marginalized members of the LGBT community.225

Although Mexico’s prohibition of anti-gay discrimination and enactment of some formal protections for same-sex couples may appear to show that authorities are
willing to attempt to prevent anti-gay abuse, this does not necessarily translate into them actually being capable of protecting LGBT people generally or transgender women specifically from the horrific violence they face.

Homophobic and anti-transgender violence continues to be rampant in Mexico, including Mexico City. Indeed, Mexico City has the highest rate of transphobic murders in the country. Just as the adoption of laws prohibiting violence against women generally has failed to end the rampant abuse of non-transgender women in Mexico, prohibitions on anti-gay discrimination have not diminished attacks on LGBT Mexicans. In fact, the evidence suggests that same-sex marriage and other formal legal protections have actually made homophobic and transphobic violence worse by inciting a backlash from people opposed to LGBT rights.

RELOCATION PRESUMPTION

Some immigration judges, citing the changed laws in Mexico City, hold that asylum-seekers can return to Mexico and relocate to Mexico City without fear of persecution. As discussed above, however, formal changes in laws permitting same-sex couples to marry and adopt children have not improved conditions for transgender women in Mexico City. In fact, rates of violence and murder have actually increased in Mexico City as well as throughout the nation since the changes in same-sex marriage and adoption laws.

Police harassment against the LGBT community remains high in Mexico City as well. Despite the reputation of the Zona Rosa district of Mexico City as an LGBT neighborhood, extortion and harassment particularly of transgender women continues there. As described above, Mexico City also has the highest rate of transphobic murders in the country. Moving to Mexico City will therefore not protect transgender women from persecution: they will remain vulnerable no matter where they reside in Mexico.

GAY PRIDE MARCHES AND “GAY TOURISM”

Gay pride demonstrations began in Mexico City in 1979. Now, Mexico City hosts a gay pride march each year in the Zona Rosa. Despite this, the violence against the gay community has not ceased or even decreased. According to the Citizens’ Commission against Hate Crimes, there are on average three homophobic murders each month in Mexico.

Moreover, there are significant differences between gay pride parades in the United States and gay pride marches in Mexico City, and the two should not be conflated. According to Professor Victor Clark-Alfaro, the purpose of gay pride marches in Mexico is to bring awareness to and to protest violence and abuse faced by LGBT communities in Mexico. He notes that in assessing country conditions some immigration judges have alluded to gay pride marches being like “parties.” Mr. Alfaro clarified, “They were trying to say it was a fun parade, but in reality it was a protest.”
Another common misperception relates to the significance of “gay tourism” and its implication for the domestic LGBT community in Mexico, particularly transgender people. In asylum cases, government attorneys sometimes submit as evidence of country conditions news articles and blogs about how “gay-friendly” parts of Mexico are for foreign tourists. Some immigration judges have found these online articles and blogs to be persuasive and indicative of improved country conditions for LGBT people in Mexico and cited them when denying transgender women’s asylum claims.

Although tourism constitutes a large part of the Mexican economy, the existence of some tourist destinations that cater to wealthy gay men from other countries is not and could not plausibly be indicative of the safety of low-income Mexican transgender women against hate crimes and violence. Tourism guides do not constitute journalism or human rights reporting, but instead serve the purpose of promotional materials to attract wealthy non-transgender foreigners to spend money at particular clubs and hotels. Even foreign tourists have suffered horrific hate crimes; in one example, Ronald Bentley Main, a real-estate agent and former president of the Greater Seattle Business Association, and his partner, Martin Orozco Gutierrez, were found stabbed to death in Martin’s home in Chapala, Mexico, a city just outside of Guadalajara.

It is important to remember that conditions for tourists are very different from the experience of ordinary Mexican citizens. And the conditions for gay tourists are completely separate from the experiences of transgender Mexican women living in Mexico. News articles about “gay tourism” are not evidence of the day-to-day experiences of gay or transgender Mexican citizens. Most Mexican transgender women do not have the financial security to go to expensive nightclubs, hotels, or resorts that cater to rich, white, gay foreigners. Using tourist gay travel guides as country conditions evidence turns opinion and off-the-cuff remarks into documented fact, allowing flimsy and generalized assertions to become the basis for legal conclusions. This type of “evidence” should not be given credence in asylum cases involving transgender women.
CONDITIONS FOR TRANSGENDER WOMEN IN U.S. IMMIGRATION DETENTION FACILITIES

Many transgender women who flee sexual violence in their home countries face further abuse when seeking asylum in the United States. LGBT immigrants in immigrant detention facilities are exposed to an increased risk of mistreatment, much like LGBT inmates in prison, who studies show are 13 to 15 times more likely than other inmates to be sexually assaulted. After receiving information on gay and transgender individuals who have faced solitary confinement, torture, and mistreatment, the U.N. Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment declared that the treatment of LGBT immigrants in U.S. detention facilities was a violation of the Convention Against Torture.

Since many transgender women seek asylum after experiencing extreme violence in their countries of origin, they are especially vulnerable to the mental health strain of being held in detention. Studies show that detention is a threat to the psychological health of immigrants and can worsen the intense psychological distress often carried by asylum-seekers fleeing persecution. Asylum cases also generally take longer to resolve than other removal cases, leading asylum-seekers to spend more time in immigration facilities than other immigrants. While the average length of stay for an immigrant in detention is 30 days, the average length for asylum-seekers is 102.4 days. Some transgender women have been detained for years while fighting their asylum cases.

Heartland Alliance’s National Immigrant Justice Center filed a report in 2011 documenting the nationwide mistreatment of immigrant transgender women held in detention. The report indicated a systematic problem of ill-treatment, and included complaints by transgender women of sexual assault, denial of medical care, extended periods of solitary confinement, discrimination and abuse, and an ineffectual grievance and appeals process. Transgender women in detention also face mistreatment because they are typically confined with men, where they are regularly subject to abuse by detained men and guards and denied access to healthcare, and where their identities are fundamentally dishonored. Despite ICE’s issuance of a “Transgender Care Memorandum” in 2015, the memorandum entirely lacks enforceability: signing onto the contact modification is optional for facilities. As of March 2016 no facilities have signed a modification to their contacts to permit transgender women to be housed with cisgender women.

A 2010 report by Human Rights Watch regarding sexual assault in immigrant detention facilities found that instances of people detained by ICE being sexually assaulted, abused, and harassed “cannot be dismissed as a series of isolated incidents” and concluded that “there are systemic failures at issue.” The American Civil Liberties Union filed a lawsuit against U.S. Immigration and Customs Enforcement (ICE) in 2011 upon discovering that nearly 200 cases of sexual assault had taken place in ICE detention facilities since 2007.
Many facilities send transgender immigrants to solitary confinement in order to isolate them from the general population, an effort that may be intended in some cases to protect them from the near-pervasive violence and sexual assault they face. However, solitary confinement frequently results in a number of negative psychological effects, including “hyper-sensitivity to external stimuli, hallucinations, panic attacks, obsessive thoughts, and paranoia[,]” as well as “impulsive, self-directed violence.” Even after release from solitary confinement, those effects linger, and they can permanently damage an individual’s ability to function.

The U.N. Special Rapporteur on torture has stated that the psychological effects of solitary confinement may become irreversible after 15 days. There have been many reports of transgender women being held in isolation in detention facilities for much longer, however. For example, advocates from the organization Americans for Immigrant Justice reported that transgender immigrants detained at the Krome Service Processing Center in Miami, Florida were being held in solitary confinement for periods of up to six months at a time. Other transgender women have reported being subjected to solitary confinement even longer.

María, a Mexican transgender woman who fled persecution in Mexico City, reported that the five months in 2010 that she spent in immigration detention, where she was kept in solitary confinement, were “true hell.” Detained transgender women are frequently held in isolation for up to 23 hours a day, “often without access to library resources, telephones, outdoor recreation, religious services, or legal services that are otherwise available to other people.” A counselor at a New Jersey detention center reported that “the treatment of people in solitary confinement is inhumane. There are many violations of human rights. One of them is that inmates in solitary confinement are forced to take tranquilizers in order to keep them calm.”

Many transgender women have given up on their very strong asylum cases because their detention conditions were too unbearable to withstand, especially on top of the trauma that they already suffered from their experiences in Mexico. The New Jersey counselor also reported that during the first trimester of 2013, at least 10 transgender women in the facility were pressured into signing voluntary deportation documents.

Transgender women in detention facilities also often face a lack of access to adequate medical treatment. HIV-positive transgender women are particularly vulnerable. Victoria Arellano, an HIV-positive transgender woman, died in 2007 while being held in a large men’s detention cell in an ICE facility after authorities refused to provide her with medical attention and her medication. As recently as November 2014, there were still reports of transgender women living with HIV being denied access to HIV medication.

Transgender immigrants in detention are also commonly denied all gender-confirming medical treatment, including hormone therapy, which many United States Courts of Appeal have found must be provided to prisoners diagnosed with gender dysphoria under the Eighth Amendment’s guarantee of basic medical care for incarcerated individuals. Although ICE’s Performance-Based National Detention Standards provide for access to hormone therapy for transgender women who had
already been receiving hormone therapy before being detained, these guidelines are seldom followed. One Mexican transgender woman held in immigration detention at the Santa Ana City Jail reported being refused hormone therapy, which she had been on for the past 10 years. Distraught, and not receiving treatment for trauma-related depression, she attempted suicide. Following her suicide attempt, authorities put her in solitary confinement.

While in detention, transgender women also face instances of mistreatment and humiliation from facility staff and ICE personnel. One transgender woman held in The Lacy Facility in California reported that she was called a “faggot” by guards on a number of occasions, and was also mocked because she was dying of AIDS. Moreover, guards singled her out for public searches where they forced her to undress and then ridiculed her bare breasts. When staff members are themselves the source of abuse against transgender women, “protective” measures such as solitary confinement are particularly ineffective.

Surveys conducted by the Department of Justice have found that LGBTQ people face much higher rates of sexual assault than other incarcerated people. Another study found that transgender women in male prisons are 13 times more likely to be sexually assaulted than the general population, with 59% reporting experiencing sexual assault. Although transgender women only account for 1 out of 500 detained immigrants, one out of every five confirmed cases of sexual assault in ICE facilities involved transgender survivors. Incidents include a case of a guard who sexually assaulted a transgender woman while she was in “protective custody.” Another reported incident involved an ICE officer who forced a transgender woman to remove her shirt while he ejaculated into a cup and demanded that she drink his semen. The officer admitted to the abuse, but served only two days in a county jail, while the victim remained locked with men in ICE detention for another five months.

Johanna, a transgender woman from El Salvador, left for the United States after she was gang-raped. After living in the U.S. for 12 years, Johanna was apprehended by ICE and placed in an all-male detention facility. While in the facility, Johanna was sexually assaulted by another detained immigrant. Unable to bear the conditions of her detention, Johanna agreed to be deported. She would flee again to the United States two more times. Each time she faced sexual abuse in all-male ICE detention facilities and months of solitary confinement. Johanna ultimately won withholding of removal due to the severe violence and persecution she experienced in El Salvador. If she had been released or if alternatives to detention had been used in the first instance, Johanna would have been spared repeated sexual assaults and months of solitary confinement she suffered in U.S. custody.

Although in recent years the Department of Homeland Security has stated an intention to improve the treatment of LGBT immigrants in its custody, transgender women continue to be subjected to horrific treatment by ICE. For example, in 2014, Marichuy Leal Gamino, a 23-year-old transgender woman originally from Mexico, was detained with men at the Eloy Detention Center. Gamino faced repeated instances of mistreatment, culminating in a sexual assault by her cellmate. After reporting the abuse to the staff of the facility, she said that they tried to get her to
sign a statement saying that she consented to the sexual assault. This series of events occurred nine years after the passage of the Prison Rape Elimination Act and nearly a year after DHS announced its regulations to implement the Act, which include explicit protections for transgender immigrants.

Many detained transgender women continue at the time of this writing to experience transphobic abuse from guards, denial of HIV medicine and hormones, being forced to shower with men, sexual violence from guards and other detained immigrants, and solitary confinement. Detention conditions for transgender women are both a human rights and access to justice concern. When transgender women give up on their asylum claims under existing immigration law solely because detention conditions are unbearable, this is a grave obstacle to fair adjudication.
RECOMMENDATIONS

As a signatory to the 1967 Protocol Relating to the Status of Refugees, the United States has international obligations to ensure that those who flee persecution can seek asylum. Under Article 3 of the Convention Against Torture, the United States may not remove any person to countries where they would face cruel, inhuman, or degrading treatment rising to the level of torture. Many Mexican transgender women flee Mexico because of persecution. As explained above, transgender women commonly suffer sexual and physical abuse at the hands of state and private actors that should be considered equivalent to torture. The Mexican government is unwilling and unable to protect transgender women from this persecution.

Based on the evidence surveyed above, several key changes are essential to improve the accuracy and fairness of adjudication of Mexican transgender women’s claims for asylum in the United States:

- Executive Office for Immigration Review (EOIR) materials given to immigration judges regarding country conditions in Mexico should explicitly discuss the distinct experiences of both gay and transgender people.

- EOIR should provide specific training for immigration judges on transgender issues. Immigration judges should be informed about the nature of sexual orientation and gender identity so that they can properly adjudicate transgender respondents’ claims. For example, immigration judges should understand that being transgender relates to one’s gender identity and is not a sexual orientation, although many transgender women experience persecution both for being transgender women and because some in society may perceive them to be gay men. The U.S. Citizenship and Immigration Services Refugee, Asylum and International Operations (USCIS RAIO) Directorate – Officer Training provides asylum officers with a comprehensive training course on LGBT Refugee and Asylum claims. EOIR should produce a similar training for immigration judges.

- The United States must end the practice of imprisoning Mexican transgender women in immigration detention during the pendency of their removal cases. Transgender women in detention are often subjected to sexual and physical assault from both guards and other detained immigrants. Many transgender prisoners are placed in solitary confinement. Physical assault, sexual violence, and solitary confinement all subject detained immigrants to physical and psychological harm and undermine their ability to pursue asylum or other humanitarian relief.

- Attorneys representing Mexican transgender women should provide immigration judges or asylum officers with country conditions materials as specifically related to transgender women as possible. Given the evolving, complex situation in Mexico and the fact that legal advances for same-sex couples have paradoxically led to increased anti-gay and anti-transgender violence, expert witness testimony is vitally important. If at all possible,
attorneys should retain an expert witness familiar with the conditions on the ground in Mexico to testify on behalf of transgender asylum seekers.

In addition, experiences described by immigration lawyers representing transgender women suggest the following reforms will be critical as well:

- The EOIR should provide immigration judges with specific training on providing vulnerable populations, especially victims of sexual abuse, with a respectful, clear, and concise adjudication. Immigration judges should be more sensitive to the trauma that many survivors have to relive during their asylum hearings. Immigration judges should be trained to facilitate a non-hostile environment. Asylum seekers must never be shackled during their testimony.

- Immigration judges should receive guidance from EOIR on how to respectfully interact with transgender women and men, including by using their chosen names and the pronouns that reflect the person’s gender identity.
CONCLUSION

Transgender women face pervasive violence and serious human rights violations throughout Mexico. The Mexican government has not been able to prevent violent attacks on transgender women or provide effective redress for survivors. The recognition of same-sex marriage, while laudable, has not ended violence against transgender women. To the contrary, the Mexican LGBT community has experienced even more violence as increased formal equality has produced a terrifying backlash. Transgender women continue to face beatings, rape, police harassment, torture, and murder in Mexico. Despite limited formal legal advances, state and non-state actors are rarely held responsible for crimes against transgender women.

It is therefore critical that asylum officers and immigration judges do not misunderstand the effect that same-sex marriage laws have had on the daily experiences of transgender women in Mexico. Indeed, ironically, these legal changes have led to an increase in the persecution of transgender women because of backlash and increased visibility. As such, many transgender women will continue to bring credible claims for asylum in the United States because of the violent persecution and torture they risk on a daily basis in Mexico.
1 A transgender individual is a person whose gender identity or gender expression does not match the gender the person was assigned at birth. The term transgender woman refers to someone who was designated male at birth, but identifies as a woman. A transgender man is someone who was designated female at birth but identifies as a man. Being transgender is independent of sexual orientation. GLAAD Media Reference Guide – Transgender Issues, GLAAD, http://www.glaad.org/reference/transgender (last visited Dec. 26, 2015).

2 Lyndsey Marcellino, Johanna Fernandez, Benjamin Figoten, Cesie Alvarez, Halimah Famuyide, and Susan Hazeldean authored this report on behalf of the Cornell LGBT Clinic.

3 The clinic authors would like to thank Amy Abeloff, Kristen Brennan, Marta Guzman, Oscar Lopez, Vanessa Morales, and Delia Ramirez for their assistance with translating documents from Spanish into English.


5 Id.

6 Id. Another 138 cases were “abandoned,” 1,906 were “withdrawn.” and 2,335 were considered “other.”

7 USCIS and EOIR keep records of how many people apply for asylum based on membership in a particular social group, but not for which specific particular social group, so there is no way to know how many sought asylum based on particular social group. For example, they do not distinguish between “homosexual” or “gay” or “transgender.”


10 Id.


12 See, e.g., Amanfi v. Ashcroft, 328 F.3d 719, 721 (3d Cir. 2003) (stating that “homosexuals” constitute a social group); see Lwin v. INS, 144 F.3d 505, 511 (7th Cir. 1998) (noting that “gay men and lesbians in Cuba” constitute a particular social group); see Karouni v. Gonzalez, 399 F.3d 1163, 1172 (9th Cir. 2005) (holding that “all alien homosexuals are members of a ‘particular social group.’”).


14 Hernandez-Montiel, 225 F.3d at 511.

15 See id. at 1087, 1088, 1095 n.7.

16 See id. at 1093.


19 Gender identity describes “each person’s deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body . . . And other expressions of gender, including dress, speech and mannerisms.” The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity INT’L COMM’N OF JURISTS 6 (2007), http://www.yogyakartaprinciples.org/principles_en.pdf. Sexual orientation, on the other hand, describes “each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender.” Id.

20 Id.

21 Id.

23 See, e.g., Reyes-Reyes v. Ashcroft, 384 F.3d 782,787 (9th Cir. 2004).


25 See id. at 7.

26 Id.

27 See id. at 8.

28 See id. at 7-8.


30 8 C.F.R. § 208(b)(1).

31 See Faruk v. Ashcroft, 378 F.3d 940, 943 (9th Cir. 2004) (finding abuse at the hands of their family members could constitute persecution when the government was unable or unwilling to control the persecutors); Nabulwala v. Gonzales, 481 F.3d 1115, 1118 (8th Cir. 2007) (holding an immigration judge erred in concluding that to qualify for asylum the applicant had to demonstrate government persecution).


36 Id.


38 8 C.F.R. §§ 204.4(a)(4) to (5), 1208.4(a)(4) to (5).


40 Id.

41 See 8 U.S.C. § 1231(b)(3).

42 See Al-Harbi v. INS, 242 F.3d 882, 888 (9th Cir. 2001).

43 See Zheng v. Holder, 644 F.3d 829, 835 (9th Cir. 2011).

44 See supra note 41.


46 8 C.F.R. § 208.17.


50 See id. at 5–6 (suggesting that transgender people make up 0.3% of the U.S. population).

51 Ley Federal para Prevenir y Eliminar la Discriminación [LFPED] [Federal Law to Prevent and Eliminate Discrimination], Art. 9, DIARIO OFICIAL DE LE FEDERACIÓN [DO], (June 11, 2003) (Mex.) [hereinafter LFPED].
52 Id.
55 See Art 27 - 32.
56 LFPED, supra n. 51.
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Tab. 17.
Crímenes de odio: Observatorio LGBT+ registra 209 asesinatos desde 2014; este año van 25

Se calcula que por cada registro de crímenes de odio hay una cifra negra de otros tres casos que quedan invisibilizados.
Anel Valenzuela estaba dentro de su negocio, una estética en el municipio de Fortín, en Veracruz, cuando una ráfaga de disparos desde una moto la mató, el pasado 25 de junio. Era de Tijuana, Baja California, era una luchadora por los derechos humanos y la razón por la que probablemente la mataron es porque era, además, una mujer trans.

Este es el caso más reciente de un crimen de odio por motivos de orientación sexual o identidad de género registrado en el país, justo en el estado en el que hay más asesinatos de personas de las comunidades Lésbico, Gay, Bisexual, Trans, Intersexual o Queer (LGBTIQ+).

En México no hay un registro oficial sobre estos delitos, por lo que en 2019 activistas crearon un Observatorio Nacional...
Observatorio LGBT+ registra 209 asesinatos desde 2014; este año van 25

conformado por organizaciones locales de 10 entidades que, considerando tan solo esos territorios, ha registrado al menos 209 asesinatos desde 2014 hasta mayo de 2020.

En este año, con todo y confinamiento por la pandemia de COVID-19, van 25 casos, más de uno a la semana. Aunque se calcula que por cada registro hay una cifra negra de otros tres casos que quedan invisibilizados.

Este lunes, un día después de conmemorarse el Día del Orgullo de la diversidad sexual, se presentó el primer informe del Observatorio, que reveló además que quienes más son víctimas de estos crímenes son las mujeres trans, en 44.5% de las veces, seguidas de los hombres afeminados, en 40.7%.

A nivel mundial, México está considerado el segundo país con más asesinatos de personas trans, 71 durante 2018, de acuerdo con la Asociación Internacional de Lesbianas, Gays, Bisexuales, Trans e Intersex para América Latina y el Caribe (ILGA-LAC).
Aunque Natalia Lane, activista del Centro de Apoyo a las Identidades Trans A.C., llamó la atención respecto a las dudas que deja que los homicidios de lesbianas sean de apenas el 5%, porque podría ser que por ser mujeres, si el perpetrador es hombre en el mejor de los casos se habrán investigado por violencia de género, sin tener en cuenta que sería un crimen bifóbico.

De las personas asesinadas que se sabe su ocupación, 47% eran trabajadoras sexuales y 47%, estilista; esto coincide con que son las actividades más comunes entre población trans, que es la más agredida, pero también es algo que ha provocado que se perpetúen estereotipos al investigar e informar sobre estas muertes. Aunque también había 10 estudiantes y 3 docentes, entre otros empleos.

Un dato importante es que al menos 21 de las víctimas fueron identificadas como defensoras de los derechos LGBT+ o que trabajaban en organizaciones dedicadas a esto.

Por tipo de homicidio, lo más común es con arma de fuego, un 26.7% de las veces, y con arma blanca el 24.3%. Para Lane, esto demuestra que la violencia contra las personas LGBT+ es contundente, una violencia que sin duda pretende asesinar. Otras causas registradas son 15.7% por golpiza, 12.9% por asfixia, y en menor medida, tortura y atropellamiento.

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El periodismo libre necesita de sus lectores.

Sigamos contando las historias que importan.
“Sin embargo, es de mencionar que, entre los mecanismos de tortura se encuentran la lapidación, el desollamiento y el uso de productos químicos. Otras armas empleadas van desde desarmadores y martillos hasta machetes y motosierras; las golpizas se dan tanto con los puños como con otros objetos”, advierte el informe.

Y en 54.7% de las víctimas hubo previamente agresiones sexuales.

De los 209 homicidios registrados, 49 fueron en Veracruz, 37 en Chihuahua, 28 en Michoacán, 22 en Guerrero, 18 en Puebla, 14 en Coahuila, 13 en la Ciudad de México, 12 en Nuevo León, 10 en Jalisco y 6 en Baja California.

La FGR promete crear registro de crímenes de odio

La doctora trans María Elizabeth Montaño desapareció el 10 de junio cuando salió de su lugar de trabajo, el Centro Médico Siglo XXI en la Ciudad de México, y fue encontrada muerta 10 días después en la carretera a Cuernavaca, Morelos. Las autoridades de esa entidad informaron que la primera línea de investigación es que se suicidó, debido a que no tenía huellas de violencia y dejó un mensaje a su familia despidiéndose.

Pero esa explicación no ha dejado tranquilos a los
activistas trans. Lane fue enfática en que lo que se pide con una campaña en redes sociales es #JusticiaParaElizabeth, porque si fue asesinato, es común que los crímenes de odio sean invisibilizados tratándolos como “crímenes pasionales” o suicidios; o si realmente fue suicidio, lo cierto es que de fondo está la transfobia, la discriminación y violencia constante que sufren estas personas y que, efectivamente, lleva a muchas a pensar en quitarse la vida.

A la presentación del informe fue invitada la titular de la Fiscalía Especializada en Materia de Derechos Humanos de la Fiscalía General de la República (FGR), Sara Irene Herrerías, que aseguró que se está trabajando junto al Instituto Nacional de Estadística y Geografía (Inegi) en un registro único de delitos que sí incluirá información sobre la orientación o identidad de género de una víctima.

También señaló que se está trabajando con el Consejo Nacional para Prevenir la Discriminación (Conapred) para incluir en el nuevo Código Penal Nacional un agravante, más que un tipo penal, sobre los “prejuicios” de este tipo que pudieron motivar un crimen.

Actualmente, solo 12 estados tienen tipificadas las agresiones a personas por su orientación o identidad: Ciudad de México, Baja California Sur, Colima, Coahuila, Guerrero, Michoacán, Nayarit, Puebla, Querétaro, San Luis Potosí, Veracruz y Aguascalientes. Mientras que en la mayor parte del país, no se tiene en cuenta este elemento para investigar, y por ello muchas veces ni siquiera es posible hacer un registro.

Gloria Careaga, directora de la Fundación Arcoíris y promotora del Observatorio Nacional de crímenes de odio LGBT+, criticó que el Estado ha sido omiso en atender
Observatorio LGBT+ registra 209 asesinatos desde 2014; este año van 25 recomendaciones internacionales para prevenir la violencia contra estas comunidades, lo cual empieza por tener datos para conocer su situación.

En 2018, varias organizaciones LGBT+ gestionaron ante la ONU que en el Examen Periódico Universal (EPU), el Consejo de Derechos Humanos hiciera recomendaciones de estos temas al Estado mexicano, y como resultado se hicieron siete observaciones, entre ellas, la de tener un adecuado registro de crímenes de odio. Otras fueron armonizar la legislación para quitar de las leyes el concepto de que la familia se forma forzosamente por varón y mujer; garantizar los cambios de identidad sexual jurídica; e incluir a la población LGBT+ en el Plan Nacional de Desarrollo 2018-2024.

Esto último ya quedó fuera con el actual gobierno. Del resto de recomendaciones, a más tardar este año se deberá dar respuesta a la ONU.

“Las elecciones de nuevos gobernantes en 2018 no han favorecido nuestro trabajo, ni la condición de las personas LGBT. Por una parte, se eliminaron todos los recursos que el gobierno federal proveía a las organizaciones sociales para el desarrollo de sus actividades, y por otro, desde la presidencia pareciera una clara intención de eludir no solo las acciones en favor de los derechos LGBT, sino incluso su mención misma”, lamentó el informe.

Lo que hacemos en Animal Político requiere de periodistas profesionales, trabajo en equipo, mantener diálogo con los lectores y algo muy importante: independencia. Tú puedes ayudarnos a seguir. Sé parte del equipo. Suscríbete a Animal Político, recibe beneficios y apoya el periodismo libre.
Hate crimes: LGBT + Observatory records 209 murders since 2014; this year there are 25 murders recorded.

It is estimated that for every recorded report of a hate crime, there are three other cases that go unreported.

By Itxaro Arteta @iartetam June 29, 2020

Anel Valenzuela was in his business, an esthetic center in the municipality of Fortín, in Veracruz, when a barrage of shots from a motorcycle killed her on June 25. She was from Tijuana, Baja California, she was a fighter for human rights and the reason they probably killed her is because she was also a trans woman.

This is the most recent case of a hate crime for reasons of sexual orientation or gender identity registered in the country. It happened in the state where there are more registered murders of people from the Lesbian, Gay, Bisexual, Trans, Intersex or Queer (LGBTIQ +) community.

In Mexico there is no official registry on these crimes, so in 2019 activists created a National Observatory made up of local organizations from 10 entities that, considering only those territories, has registered at least 209 murders from 2014 to May 2020. This year, even with the confinement due to the COVID-19 pandemic, there are 25 cases, more than one a week, although it is estimated that for each report there is a number of three other cases that go unreported.

This Monday, a day after commemorating Sexual Diversity Pride Day, the Observatory's first report was presented, which also revealed that those who are most victims of these crimes are trans women, 44.5% of the time, followed by effeminate men, 40.7% of the time.

Worldwide, Mexico is considered the second country with the most murders of trans people, 71 during 2018, according to the International Lesbian, Gay, Bisexual, Trans and Intersex Association for Latin America and the Caribbean (ILGA-LAC).

Natalia Lane, an activist with the Centro de Apoyo a las Identidades Trans A.C., pointed doubts to the fact that the homicides of lesbians are only 5%, because it could be that since they are women the cases are investigated as gender based violence and not reported at least as biphobic crimes.
Of the murdered people whose occupation is known, 47% were sex workers and 47%, stylists; This coincides with the fact that they are the most common activities among the trans population, which is the most attacked, but it is also something that has caused stereotypes to be perpetuated when investigating and reporting on these deaths. Although there were also 10 students and 3 teachers, among other jobs.

An important fact is that at least 21 of the victims were identified as defenders of LGBT+ rights or who worked in organizations dedicated to this.

By type of homicide, the most common is with a firearm, 26.7% of the time, and with a knife 24.3%. For Lane, this shows that violence against LGBT+ people is very evident, that it is a type of violence with the clear intend to kill. Other registered causes are 15.7% for beatings, 12.9% for suffocation, and to a lesser extent, torture and run over by cars.

“However, it should be mentioned that among the torture mechanisms, there are stoning, skinning and the use of chemical products. Other weapons used range from screwdrivers and hammers to machetes and chainsaws; beatings occur both with fists and with other objects,” the report warns.

54.7% of the victims suffered sexual assaults previously.

Of the 209 homicides registered, 49 were in Veracruz, 37 in Chihuahua, 28 in Michoacán, 22 in Guerrero, 18 in Puebla, 14 in Coahuila, 13 in Mexico City, 12 in Nuevo León, 10 in Jalisco and 6 in Baja California.

The Office of the Attorney General promises to create a register of hate crimes.

Trans doctor María Elizabeth Montaño disappeared on June 10 when she left her workplace, the Siglo XXI Medical Center in Mexico City, and was found dead 10 days later on the highway to Cuernavaca, Morelos. The authorities reported that the first line of investigation is that she committed suicide, because she had no traces of violence and left a message to her family saying goodbye.

But that explanation has not left trans activists at peace. Lane stresses that what is required is a campaign on social networks, #JusticiaParaElizabeth, because if it was murder, it is common for hate crimes to be made invisible by treating them as "crimes of passion" or suicides; or if it was really suicide, the truth is that at the bottom end there is transphobia, discrimination and constant violence that these people suffer and that, indeed, leads many to think about taking their own lives.

The head of the Special Prosecutor's Office in Human Rights of the Attorney General's Office, Sara Irene Herrerías, was invited to the presentation of the report, who assured that it is working together with the National Institute of Statistics and Geography (Inegi) in a single crime registry that will include information on the orientation or gender identity of a victim.
She also pointed out that they are working with the National Council to Prevent Discrimination (Conapred) to include in the new National Criminal Code an aggravating factor, based on the prejudices that could lead to crimes like these.

Currently, only 12 states have criminalized attacks on people by their orientation or identity: Mexico City, Baja California Sur, Colima, Coahuila, Guerrero, Michoacán, Nayarit, Puebla, Querétaro, San Luis Potosí, Veracruz and Aguascalientes. While in most of the country, this element is not taken into account for investigation, and therefore many times it is not even possible to keep a record.

Gloria Careaga, director of the Arcoíris Foundation and promoter of the National Observatory of LGBT + hate crimes, criticized that the State has failed to comply with international recommendations to prevent violence against these communities, which begins with having data to know their situation.

In 2018, several LGBT+ organizations lobbied during the UN’s Universal Periodic Review (UPR), for the Human Rights Council to make recommendations on these issues to the Mexican State, and as a result seven observations were made, among them, that of having an adequate hate crime registry. Others were to harmonize the legislation to remove from the laws the concept that the family is forcibly made up of men and women; guarantee changes of sexual identity in legal document; and include the LGBT+ population in the National Development Plan 2018-2024. The latter will not be included with the current government. Regarding the rest of the recommendations, no later than this year a response must be given to the UN.

“The elections for new leaders in 2018 have not favored our work, or the conditions of LGBT people. On the one hand, all the resources that the federal government provided to social organizations for the development of their activities were eliminated, and on the other, from the presidency it seems there is a clear intention to avoid not only actions in favor of LGBT rights, but also even its mention itself “, lamented the report.

CERTIFICATE OF TRANSLATION

I, Jorge Vinicio Fernández Yépez, am competent to translate from Spanish into English, and certify that the translation of the article “Crimenes de odio: observatorio LGBT+ registra 209 asesinatos desde 2014; este año van 25”, is true and accurate to the best of my abilities.

__________________________
Jorge Vinicio Fernandez Yepez
(signature of translator) (typed/printed name of translator)

594 Dean Street, Brooklyn, NY, 11238
(address of translator)

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Tab. 18.
Death of trans doctor in Mexico sparks new fears over LGBT+ violence

Oscar Lopez

MEXICO CITY (Thomson Reuters Foundation) - Mexican authorities said on Friday they were investigating the death of a leading transgender health expert, who was found dumped by a motorway, reigniting fears over the safety of trans people in the country.

Elizabeth Montano, a transgender doctor who worked at the Mexican Social Security Institute, had been reported missing for nearly 10 days, authorities said, before her body was found near the town of Tres Marias, some 50 kilometers south of Mexico City.

The Mexican capital prosecutor’s office said it was collaborating with the Morelos state justice system to follow up on the investigation and “deliver truth and justice.”

“We are in contact with (Montano’s) family to whom we send our solidarity,” said Mexico City Mayor Claudia Sheinbaum on Twitter. “We expect a quick investigation from prosecutors.”

Despite recent progress on LGBT+ rights, with same-sex marriage legal in more than half the country’s states, Mexico remains a dangerous and often deadly place for trans people.

Last year, 117 LGBT+ people were killed in Mexico, up almost a third compared with 2018 and the highest number since 2015, according to local advocacy group Letra S.

LGBT+ activists lamented Montano’s death as the silencing of an important trans rights advocate in the health sector, where transgender people often face discrimination and rejection.

Montano had trained local doctors on transgender care, according to Siobhan McManus, a trans rights activist, and was planning on expanding the training to other regions.

“Elizabeth was a transformational force within medical communities and was a very important voice,” she told the Thomson Reuters Foundation.

Transgender women are among the most vulnerable to attacks in a country where murder rates have soared due to drug cartel-fueled violence.

Last year, the number of murder victims among the general population increased 2.5%, but the number of gay and trans victims was 27% higher than the national average, said Letra S.

More than half the victims were transgender women, the organization said.

Montano’s death “is a powerful reminder … of the violent situation that LGBT communities live in, and particularly trans populations,” said Alex Ortiz, head of LGBT+ youth suicide prevention group It Gets Better Mexico.

“It’s cruel on so many levels.”

The Mexico City prosecutor’s office said Montano’s body was found with her belongings and without signs of violence.

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Tab. 19.
Mexico sees deadliest year for LGBT+ people in five years

Oscar Lopez

MEXICO CITY (Thomson Reuters Foundation) - Mexico is seeing a surge of extreme violence toward LGBT+ people in its deadliest year in half a decade, a group said on Friday, citing cases of victims brutally stabbed and brazenly killed in public.

In 2019, 117 lesbian, gay, bi and trans people were killed in Mexico, up almost a third compared with 2018 and the highest number since 2015, according to group Letra S.

Overall in Mexico, last year was the deadliest on record, but the increase among the gay and trans community was more severe, said Alejandro Brito, a researcher with the group.

“We’ve documented that victims are subjected to multiple forms of violence, before or even after they were murdered,” Brito said.

“There is a cruelty towards the victims,” he told the Thomson Reuters Foundation.

Victims have been found handcuffed, stabbed repeatedly and in public places, he said.

A lesbian woman was killed while out one night with her girlfriend in the city of Cuernavaca, and the bodies of several murdered trans women were found dumped in the streets.

Amid widespread gang violence and drug trafficking groups in Mexico, more than 34,500 homicide victims were reported last year, according to official statistics.

But while the number of murder victims was up 2.5% in 2019, the number of gay and trans people killed was 27% higher than in 2018, said Letra S.

More than half the victims were transgender women, while nearly a third were gay men. At least 441 LGBT+ people were murdered in Mexico between January and May, the group said.

LGBT+ rights have grown stronger in Mexico, with discrimination on the basis of sexual orientation outlawed since 2003. The country was the second in Latin America after Ecuador.

More than half of Mexico’s 32 states recognize gay marriage, and the nation’s top court has ruled that trans people have a legal right to change their gender documents.

Brito said the increasing visibility afforded by advances in LGBT+ issues may have contributed to the surging violence.

The violence “is specifically directed at LGBT people,” he said.

“The greater visibility ... has led macho groups, fundamentalist sectors to reject this public presence of gays, lesbians and trans people.”

Gay and trans people still face societal prejudice in the predominantly Catholic country where religious groups frequently criticize LGBT+ rights.

In a 2017 government survey, about a third of Mexicans said they would not rent out a room to a gay or trans person.
Lawmakers welcomed the data for highlighting the often underreported violence faced by LGBT+ people in Mexico.

“Hate crimes due to homophobia and transphobia are generally made invisible,” said Patricia Mercado, a senator with the opposition Citizens’ Movement, continue working to prevent all forms of discrimination that can lead to a hate crime.”

The data on murders was based on news reports of LGBT+ killings, but the actual number could be much higher, according to Letra S.

Reporting by Oscar Lopez @oscarlopezgil, editing by Ellen Wulfhorst. Please credit the Thomson Reuters Foundation, the charitable arm of Thomson Reuters, that covers the stories of the world who struggle to live freely or fairly. Visit http://news.trust.org

Our Standards:  The Thomson Reuters Trust Principles.
Tab. 20.
Las leyes mexicanas no consideran este delito de manera coordinada, pese a que el sexenio de Enrique Peña Nieto fue el más letal para la población LGBT+

Ésta es la primera parte (de tres) de un reportaje de largo aliento que tomó casi un año
elementos que permitan mejorar en la convivencia humana. Lo merecemos como especie.

I. Homofobia, los crímenes que nadie quiere ver

Los vacíos legales en los 32 códigos penales del país y la falta de un criterio unificado para castigar el homicidio por razones homofóbicas propician un escenario de impunidad para quienes cometen ese delito.

Después de una revisión de los códigos penales estatales, que comprendió hasta su última actualización del 31 de enero de 2019, quedó en evidencia que no existe un criterio uniforme para tipificar esos crímenes de odio, lo cual dificulta su persecución y sanción.
Esa situación deja en la indefensión a las víctimas, quienes son asesinadas en razón de su preferencia u orientación sexual e identidad de género.

Del homicidio de odio hacia población LGBTTTI (Lesbianas, Gays, Bisexuales, Transgéneros, Travestis, Transexuales e Intersexuales) se tiene registro de su denuncia pública desde hace más de 25 años en México, por agrupaciones de la sociedad civil y organismos nacionales e internacionales.

En 2017 Valeria Durán realizó el reportaje Las muertas que no se ven, donde expuso la falta de un criterio legislativo unificado.
Durante su investigación, la periodista mexicana identificó que otro delito que no se registra debidamente son los transfeminicidios.

"Cuando comencé mi investigación sobre la tipificación de los feminicidios y descubrí los vacíos legales que existen en la República Mexicana también me di cuenta que no en todos los estados se reconocen los asesinatos por razón de la orientación sexual dentro de los códigos penales estatales... En México se está asesinando a la comunidad LGBTTTI, pero legalmente sus muertes quedan en las sombras", alertó Durán.

Guanajuato y Baja California, los
Baja California y Guanajuato no consideran dentro de sus códigos penales los conceptos "preferencia sexual" u "orientación sexual" y crean una invisibilización absoluta para las víctimas de la comunidad LGBT+.

Por lo que se refiere a "identidad de género", 20 códigos locales y el mismo Código Penal Federal ignoran ese término.

Al respecto, el Colectivo Letra S aseguró en su informe Los asesinatos de personas LGBTTT en México: los saldos del sexenio (2013-2018) que en todo el país "las mujeres trans o personas trans con expresión femenina son las más expuestas a sufrir actos de violencia homicida".
Según el reporte realizado a nivel nacional, una característica que acompaña al homicidio de odio a personas LGBT+ es el ensañamiento y las marcas de tortura que aparecen en los cuerpos de las víctimas.

"Al menos 60 de las víctimas -de 473 casos registrados de notas periodísticas en seis años- aparecieron con 'marcas de tortura' o señales claras de ensañamiento", señala el documento.

A pesar de esa incidencia, sólo 12 estados castigan las lesiones provocadas con relación a la "preferencia u orientación sexual" de la víctima, y con respecto a la "identidad de
Para el delito de tortura y su castigo sólo Baja California Sur y Jalisco la tipifican con relación a la "preferencia u orientación sexual" de la víctima. Ninguna de estas legislaciones habla de tortura para lo que compete a víctimas en razón de su "identidad de género".

En cuanto a la desaparición forzada, Baja California Sur, San Luis Potosí y Veracruz sí identifican este delito cuando es motivado por la "preferencia u orientación sexual" de la víctima.
Desaparición forzada sólo es mencionada en el Código Penal de San Luis Potosí para "identidad de género".

De acuerdo con Letras S durante el sexenio de Felipe Calderón cada año un promedio de 79 personas fueron ultimadas por su condición LGBT+, aunque la agrupación reconoció que su recuento es sólo un estimado ya que la cifra real es superior.

En resumen, casi 44 por ciento de los estados (14 códigos penales) tipifican el homicidio de odio en razón de la "preferencia u orientación sexual" de la víctima, mientras que poco más de la mitad, el 56 por ciento restante (18 códigos), ignoran ese delito.

Por lo que respecta al transfeminicidio –es decir, el
sancionan, aunque ese sector representó el 55 por ciento de las víctimas que registró en su reporte Letra S.

Armando Campos Zambrano, abogado, activista y defensor en Derechos Humanos, opinó que debería existir una generalidad legislativa que castigue al homicidio de odio hacia población LGBT+ tal como sucede con el feminicidio en los códigos penales locales y federal.
La actual condición legal del homicidio de odio por homofobia —con sus lagunas y vacíos— se podría entender debido a la presencia de una percepción homofóbica por parte de los encargados de crear las leyes en cada entidad", a juicio del experto.

Para el abogado Jaime López Vela, luchador social y diputado constituyente de la Ciudad de México, ese crimen también presenta otras formas de agresión como violencia sexual, lesiones, tortura, desaparición forzada, extorsión, robo, daño al patrimonio, extorsión, chantaje, abuso de confianza, entre otras.
Los litigantes coincidieron en que el origen de la impunidad está en la inadecuada o inexistente tipificación de los delitos en los 32 códigos penales del país, lo cual propicia un escenario de impunidad para víctimas asesinadas en razón de su preferencia u orientación sexual, así como de su identidad de género.

Lee también: Hidden flag, así fue como activistas protestaron contra la homofobia en Rusia
The Mexican laws do not contemplate this crime in a coordinated manner, even though Enrique Peña Nieto’s six-year term was the most lethal for the LGBT+ population.

This is the first part (of three) of a long-term feature that took almost a year to develop with the intention to contribute to the public debate elements that will allow progress in the human coexistence. We deserve it as a species.

1. Homophobia, the crimes that no one wants to see

The legal vacuums in the country’s 32 penal codes and the scarcity of a unified criteria to punish the homicide due to homophobic reasons foster a scenario of impunity for those that commit that crime.

After a review of the states’ penal codes, which encompassed until its last update on January 31, 2019, it was evident that no uniform criteria exists to classify those hate crimes, which complicates its persecution and sanction.

That situation leaves the victims defenseless, who are murdered due to his or her sexual preference or orientation, and gender identity.

Of the hate murder towards the LGBTTTI (Lesbians, Gays, Bisexuals, Transgenders, Transvestites, Transsexuals and Intersex) there is record of its public denunciation for a long time, more than 25 years in Mexico, by civil social groups, and national and international bodies.

In 2017, Valeria Duran made the report *The dead that are not seen (Las muertas que no se ven)*, where she exposed the scarcity of a unified legislative criteria to punish that femicide in the country and emphasized that not even 20 percent of that crime is recognized.

During her investigation, the Mexican journalist identified that another crime that is not duly registered is the trans femicides.

“When I started my investigation about the classification of the femicides and I discovered that legal vacuums that exist in the Mexican Republic I also realized that not in all states the murders due to sexual orientation are recognized in the states’ penal codes... In Mexico, the LGBTTTI community is being murdered, but legally their deaths are left in the shadows”, Duran alerted.
Guanajuato and Baja California, the worse

Baja California and Guanajuato do not consider within their penal codes the concepts of “sexual preference” and “sexual orientation” and they create an absolute invisibility to all victims of the LGBT+ community.

For what is referred to as “gender identity”, 20 local codes and the same Federal Penal Code ignore this term.

About this, Colectivo Letra S assured in its report *The murders of LGBTTT people in Mexico: the Numbers of the sex-year term (2013-2018)* (Las asesinatos de personas LBTTT en México: los saldoos del sexenio (2013-2018), in Spanish) that nationwide “trans women or trans persons with feminine expressions are the more exposed to suffer acts of homicidal violence”.

According to the report conducted nationwide, a characteristic that accompanies hate homicides towards LGBT+ persons is the extreme cruelty and torture marks that appear in the victims’ bodies.

“At least 60 of the victims -of the 473 registered cases from journalistic notes in six years- appeared with “torture marks” or clear signs of extreme cruelty”, the document points out.

Despite that incidence, only 12 states punish the lesions provoked with relation to the “sexual preference or orientation” of the victim and regarding “gender identity” hardly eight entities impose sanctions.

For the torture felony and its punishment only South Baja California and Jalisco classify it with relation to the “sexual preference or orientation” of the victim. None of these legislations talks of torture for which falls on the victims because of their “gender identity”.

Regarding forced disappearance, South Baja California, San Luis Potosi, and Veracruz do identify this crime when it is motivated by the “sexual preference or orientation” of the victim.

The remaining 90 percent of the states ignore it. Forced disappearance is only mentioned in the San Luis Potosi Penal Code for “gender identity”.

According to Letra S, during the six-year term of Felipe Calderon, every year an average of 79 people were killed because of their LGBT+ classification, even though the group acknowledged that its count is only an estimate since the real number is even greater.

In summary, almost 44 percent of states (14 penal codes) classify hate murder because of the “sexual preference or orientation” of the victim, while a little more than half of them, the remaining 56 percent (18 codes), ignore this crime.
With regards to trans femicide –that is, the femicide due to gender identity–, only nine states sanction it, even though this sector represents 55 percent of the victims that Letra S registered in its report.

Armando Campos Zambrano, attorney, activist and human rights advocate, gave his opinion that there should exist a legislative generality that punished hater murder toward the LGBT+ population just as it occurs with femicide in the local and federal penal codes.

“The current legal status of hate murders for homophobia —with its loopholes and gaps could be understood due to the presence of a homophobic perception from those in charge of creating the laws in each entity”, from the expert’s opinion.

For attorney Jaime Lopez Vela, social activist and constituent deputy of Mexico City, that crime also presents other forms of aggression like sexual violence, lesions, forced disappearance, extortion, robbery, property damage, extortion, blackmail, breach of faith, among others.

The litigants concurred in that the origin of impunity is in the unsuitable or nonexistent classification of the felonies in the 32 penal codes of the country, which favors a scenario of impunity for victims murdered because of their sexual preference or orientation, as well as because of their gender identity.
CERTIFICATE OF TRANSLATION

I, Natalie Nicole Trinidad Lira, am competent to translate from Spanish into English, and certify that the translation of Article: “Así es el homicidio de odio por LGBTTFobia en México” is true and accurate to the best of my abilities.

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Dozens of LGBT+ people staged a defiant kiss-in after plaza security guards forced a gay couple to stop kissing in Mexico. (Israel Salazar/Twitter)

Unfurling a sprawling LGBT+ Pride flag, protesters packed a shopping mall in Mexico on Sunday after security staff banned a gay couple from kissing and holding hands.

“Love is love!” the demonstrators chanted as they walked by luxury fashion stores and coffee house chains, kissing one another and waving flags as shoppers exchanged quizzical looks.

The Besotón vs Homofobia 2020 march was held in defiance after Galerías Monterrey, Monterrey, security officers demanded a gay couple stop kissing in the plaza.
Kiss-in staged after gay couple kicked out of shopping plaza.

Jorge and Iván were waiting in the square until a movie started in the cinema nearby when the patrolling guards cornered them and asked them to leave.

Officers asked if the couple “could not be groping” outside in case children see them, Jorge, one half of the couple, claimed in a viral Facebook video.

DISCRIMINACIÓN en Galerías Monterrey por ser GAY con video de los guardias en el momento! #sinmiedoaalzarlavozInstagram @soyjorgeanguiano Posted by Jorge Anguiano on Wednesday, February 26, 2020

Regias del Drag, a drag queen collective in the northern city, organised the protest to openly defy the guards who, Jorde said, claimed they were “only following orders”.

At around 3pm, the shopping center of the plaza was paralyzed by the impassioned protesters, who rolled out rainbow banners and draped flags around them as capes. Some hoisted poles with unmissable trans-inclusive gender symbols on top.

Chants of “education is the option”, “no to discrimination” and “not a step back” echoed across the canyon of shops as protesters descended down the escalators.
discriminatorio contra una pareja gay por guardias de seguridad de la plaza comercial. 🌈валентинкаลาดحاليات #Besotón #GaleríasMonterrey #Homofobia #LGBTITIQ

105 19:54 - 1 Mar 2020

56 people are talking about this

Igualdad LGBT 🇲🇽
@IgualdadLGBT

Hace unos días en un centro comercial de México, dos guardias de seguridad prohibieron besarse y darse la mano a una pareja gay. Y así es como protesto la gente el otro día 🌈🌈
After security banned two gay men kissing, dozens of couples staged a kiss-in protest

Hoy en el Día de Cero Discriminación, la comunidad LGBTTTIQ+ de Monterrey se hizo presente en plaza Galerías para un “besotón” y decir que no se va a dar marcha atrás en los derechos humanos, luego de que a principios de febrero guardias echaron a pareja de hombres por besarse.
After security banned two gay men kissing, dozens of couples staged a kiss-in protest

The group, which included Jorge and Iván alongside dozens of supporters and drag queens, later spilled into one of the major walkways of the shopping mall and kissed and embraced one another. A circle of supporters cheering each on.

Amor es amor
Besotón ante la discriminación que vivió pareja gay en Galerías Monterrey.
Nuevo León
Video: @rubmaza
LGBT+ rights in Mexico.

Mexico City, a liberal island in the vastly conservative United Mexican States, first paved the way for marriage equality and a seismic shift towards acceptance in Latin America in 2009.

In breaking long-held taboos around homosexuality, the jurisdiction became the first to legalise same-sex marriage.

Years on, and each of the 31 states of Mexico have unique codes around marriage, forming a patchwork of states that have various degrees of marriage equality but, overall, it is not illegal.
Moreover, LGBT+ citizens enjoy study anti-discrimination laws and acceptance is on the up. Although, rights around parenthood and the military remain in limbo.

Some bills are still pending, clogging the Congress of Mexico, while others, such as banning conversion therapy, are proposed.

Furthermore, in 2019, Mexico was considered the world’s second-deadliest country for trans people.

More from PinkNews

Stars you didn’t know are gay or lesbian

Celebs you didn’t know have an LGBT sibling

A study by Mexican LGBT+ rights organisation Letra Ese has shown that, between 2013 and 2016, at least 473 LGBT+ people have been killed in the country, and 261 of these were trans women.

According to the report, the last two years have been the most violent, with a 30 per cent increase in the number of murders in relation to the average of previous years

More: kiss-in, Mexico, protest
Tab. 22.
SALTILLO, Coahuila.

El Observatorio Nacional de Crímenes de Odio contra personas LGBT en México, pretende crear una ley nacional para tipificar este delito y que pueda ser castigado en el resto de las entidades que no lo conforman.

Noé Ruiz Malacara, presidente de la Asociación San Aelredo, en Saltillo, Coahuila, sostuvo que el pasado 29 de junio se dio a conocer el informe de asesinatos contra este sector de la población, en donde se detalló que las personas LGBTTTI+ están siendo brutalmente asesinadas.

En el mismo se detalla que México suma 209 crímenes, de los cuales 14 corresponden a Coahuila, seis en Baja California, 37 en Chihuahua, 13 en CDMX, 22 en Guerrero, 10 en Jalisco, 28 en Michoacán, 12 en Nuevo León, 18 en Puebla y 49 en Veracruz.

Manifestó que el incremento en las cifras en los estados de Veracruz, Chihuahua y Michoacán, los mantienen en una especial atención.

157 de las personas aseasinadas fueron asociadas con el sexo masculino, mientras que 43 con el femenino, sin embargo respetando la identidad de género, identificamos que 93 eran mujeres trans, 85 hombres, 11 mujeres, 2 hombres trans y 2 personas trans.

De 16 personas no se tiene información al respecto y se llegó a la conclusión de quienes están más expuestas son las mujeres trans trabajadoras sexuales, con un total de 27 asesinatos.

El activista sostuvo que de los 14 crímenes en Coahuila, solo cinco han sido resueltos, en seis la familia ya no quiso seguir con la denuncia y solo tres familiares y amigos siguen pidiendo que se ubique a los responsables, en Saltillo, Torreón y Parras de la Fuente.

Se espera que para el 2021 el Observatorio Nacional de Crímenes de Odio contra personas LGBT en México pueda crecer más y que ya estén las 32 entidades integradas.
SALTILO, Coahuila

The National Observatory of Hate Crimes Against LGBT Persons in Mexico, expects to create a national law to classify this crime and that it could be punishable in the rest of the entities that have not constituted it.

Noe Ruiz Malacara, president of the Association San Aelredo, in Saltillo, Coahuila, affirmed that the report on the murders against this sector of the population was made known this past June 29, where it was presented that the LGBTTTI+ persons were being brutally murdered.

In the same, it is detailed that Mexico adds 209 crimes, of which 14 correspond to Coahuila, six in Baja California, 37 in Chihuahua, 13 in CDMX, 22 in Guerrero, 10 in Jalisco, 28 in Michoacan, 12 in Nuevo Leon, 18 in Puebla and 49 in Veracruz.

He manifested that they keep the increase in numbers in the states of Veracruz, Chihuahua and Michoacan, under special consideration.

157 of the people murdered were associated with the male sex, while 43 with the female, however, respecting gender identity, we identified that 93 were trans women, 85 were men, 11 women, 2 trans men and 2 trans people.

Of 16 people, there is no information on the matter, and a conclusion has been reached that those who are more exposed are trans women sex workers, with a total of 27 murders.

The activist sustained that of the 12 crimes in Coahuila, only five have been resolved, in six the family did not want to continue with the complaint and only three family members and friends continue asking for those responsible to be located, in Saltillo, Torreon and Parras de la Fuente.

It is expected that for 2021 the National Observatory of Hate Crimes against LGBT Persons in Mexico could grow more and that the 32 entities are already integrated.
CERTIFICATE OF TRANSLATION

I, Natalie Nicole Trinidad Lira, am competent to translate from Spanish into English, and certify that the translation of Article:

“Población LGBT está siendo asesinada en México” (Name of Document) is true and accurate to the best of my abilities.

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(signature of translator)

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Tab. 23.
Vulnerable LGBTQ migrants left to wait in Mexico

Pedro Luis Perez, 27, center, of Guatemala, with Katherine Hernandez, 24, left, of Tegucigalpa, Honduras, a transgender woman, and Perla, a 28-year-old Mexican from Guerrero, have breakfast at the Casa de Luz collective housing in Tijuana, Baja Calif., on Oct. 8, 2019. Pedro had to leave Guatemala after his dad tried to kill him and he faced multiple other assaults from police and the public. Many in the community are seeking political asylum for having received threats in their home countries for their sexual orientation. (Gary Coronado / Los Angeles Times)

Migrants can still request asylum based on persecution because of their gender identity and/or their sexual orientation

By WENDY FRY, MOLLY HENNESSY-FISKE

NOV. 3, 2019 5 AM

TIJUANA, MEXICO — Pedro Luis Perez arrived at the northern Mexico border in early 2019 looking for safety and asylum in the United States, but instead he spent about 10 months waiting in Tijuana where he said he felt threatened because of his sexual orientation.

Perez was 13 when his parents threw him out of his family home in Guatemala for being gay. He spent much of his youth living on the streets, hunkering down under bridges when it rained.
“My family doesn’t love me,” the 27-year-old asylum seeker said.

In November 2016, he was leaving work late at night after a shift in a restaurant when Guatemalan police stopped him and searched him. He said he recognized the officers from a police station close to his home.

“I hadn’t done anything,” he said. “They were homophobic and they didn’t want to see me.”

Perez said they kidnapped and tortured him for about 24 hours.

“The next day, they threw me out in the street, nude, at six in the morning,” he said. “They had abused me, sexually. I had blood dripping down, and I was crushed and naked. I started walking; looking for help.”
Authorities in violence-ridden Central American countries have done little to protect members of the lesbian, gay, bisexual, transgender, and other LGBTQ communities, causing many to flee, according to Amnesty International.

High levels of corruption in their countries mean authorities rarely punish those responsible for crimes, especially crimes against people in the LGBTQ community, and particularly when police are responsible for the attacks, the organization said.

Studies show LGBTQ migrants are among the most vulnerable, more likely to be assaulted and killed, especially trans migrants. Of Central American LGBTQ migrants interviewed by the U.N. High Commissioner for Refugees in 2017, 88 percent were victims of sexual and gender-based violence in their countries of origin; two-thirds suffered similar attacks in Mexico.

Yet the Trump administration is returning LGBTQ migrants seeking asylum in the U.S. to face assaults, kidnapping and death in Mexican border cities while they await U.S. court hearings.

It is also detaining lesbian, gay, bisexual, transgender and queer migrants in U.S. Immigration and Customs Enforcement custody, despite mounting evidence that the agency fails to provide proper medical and mental-health care.
An ICE spokeswoman provided the Union-Tribune a list of medical protocols for transgender migrants that includes providing them physical and mental evaluations within two days of entering an ICE facility, a medical treatment plan if necessary and access to health services.

Migrant advocates are troubled by what they are seeing.

“Terrorized at home, and abused while trying to seek sanctuary abroad, they are now some of the most vulnerable refugees in the Americas. The fact that Mexico and the U.S.A. are willing to watch on as they suffer extreme violence is, simply, criminal,” said Erika Guevara-Rosas, Americas Director at Amnesty International.

While the Trump administration has severely limited asylum qualifications for Central Americans fleeing gang violence and domestic abuse, migrants can still request asylum based on persecution because of their gender identity and/or their sexual orientation. But their path is far from easy.

“Here, the same as at home, the police discriminate against us,” said Perez in early October. “We’re very vulnerable. I don’t feel safe here in Mexico.”

Transgender women, especially, have experienced violence in Tijuana as they waited for processing by U.S. immigration authorities.
Pedro’s roommate in Tijuana, Katherine Hernandez, 24, a transgender migrant from Tegucigalpa, Honduras, said she rarely leaves her room for fear of being harassed.

In May 2018, six armed men robbed the Tijuana shelter where transgender women and other members of LGBTQ community were staying.

Days later, someone barred the door shut with a mattress and lit it on fire.

The assaults targeted the modest Catholic-run Caritas Tijuana shelter, located in a low-income neighborhood perched on a hillside near a narrow street that runs south of downtown.

In Tijuana, Perez lived in Casa de Luz, a casa collectiva or a shared living space in Playas de Tijuana. He said he stayed inside most days, for fear of being picked up by Mexican immigration authorities or being attacked for being gay.

“Truthfully, this is what we do all day long, just passing the time until my number comes up,” he said in early October, as he and his friends checked his number online, debating what day he would finally cross after 10 months of waiting in Mexico.

In the corner of a small room Perez shared with five other LGBTQ friends in Tijuana, he doubled over laughing with his friend Perla, a 28-year-old transgender Mexican from Guerrero deported to Tijuana after four months in U.S. immigration detention.

The experience in U.S. immigration detention was so horrific; Perla says she wouldn’t ever go back to the United States, even if she could. She now dreams of immigrating to Canada.

She worried that Perez was not fully prepared for the nightmare that awaited him.

“I was telling him, you have to be prepared. I almost died. When people were messing with me for being gay and they wanted to cause violence to me and cause me pain, I almost committed suicide,” said Perla about her time in U.S. immigration detention.

She asked the Union-Tribune not to use her full name for fear of being targeted for further violence in her home country of Mexico.

When she saw the worry on Perez’s face, she quickly reassured him, “they’re going to let him pass because he has a lot of proof,” she said.
But immigration officials did not parole Perez. He is currently being held in the Otay Mesa Detention Center in U.S. Immigration and Customs Enforcement custody, an agency that has repeatedly been accused of inhumane treatment of lesbian, gay, bisexual, transgender and queer migrants.

Several human rights groups demanded in September that ICE release all LGBTQ detainees and anyone with HIV in the agency’s custody, saying the U.S. government has proved incapable of providing adequate medical and mental-health care to them.

The 14 advocacy groups say ICE detention facilities have faced repeated complaints about treatment of LGBTQ detainees. In June, a transgender woman from El Salvador died after becoming sick at a private ICE detention center in New Mexico. In 2017, a 34-year-old HIV-positive trans woman whose medication was withheld during her six-month detention at the Otay Mesa Detention Center was misdiagnosed with tuberculosis and fell seriously ill without her proper medication.

Numbers for how many LGBTQ migrants are kept in ICE custody are not available — nor has the Department of Homeland Security released figures for how many migrants with HIV it has detained.

It is also unclear how many LGBTQ migrants have been returned to Mexico to wait for their court hearings under the government’s Migrant Protection Protocols program, known as Remain in Mexico or how many are waiting in Mexico, like Perez did, to claim asylum under a U.S. policy known as “metering.”

When migrants arrive at Mexico’s northern border, they are given a number to wait for their turn to approach U.S. border officers and ask for asylum. The process, known as “metering,” limits the number of asylum seekers that border officials will accept at ports of entry each day.

Early every morning, people from all around the world gather at “the line” near the El Chaparral Plaza in Tijuana to hear numbers called from the wait list, hoping to hear it’s their turn to cross.

On Friday, Oct. 11, after 10 months of waiting, volunteers finally called Pedro’s number, number 3,157, indicating it was his turn to cross. With the phone numbers of advocates written in Sharpie on his forearm, Perez crossed into the United States.

It’s not clear how many of the more than 50,000 asylum seekers returned to Mexico or the 26,000 more on border waiting lists are part of the LGBTQ community.

When congressional lawmakers wrote to Homeland Security in June demanding they clarify the Remain in Mexico policy for LGBTQ migrants border-wide and release statistics showing how many had been returned, the agency refused, citing ongoing lawsuits filed by migrant advocates. The Texas Civil Rights Project, a legal
advocacy group based on the border, started a petition to help LGBTQ asylum seekers and reached out to lawmakers in Texas.

“They’re not responding to help,” said Dani Marrero Hi, a fellow with the group.

In October, they hosted presidential candidate Julian Castro, who accompanied eight LGBTQ migrants across the border bridge in Matamoros — only to see them returned hours later to Mexico by U.S. Customs officers.

Border Patrol officials initially said “vulnerable” asylum seekers would be exempted from the Remain in Mexico program, including those who are LGBTQ, pregnant or disabled.

The program returns migrants to Mexico to wait out their immigration proceedings. Numerous trans asylum seekers have been allowed to enter the U.S. and either been released or placed in detention. But many more LGBT asylum seekers have been placed on waiting lists or returned to Mexico for months.

In interviews during the past month, dozens of LGBT asylum seekers in Juarez, Matamoros and Tijuana said U.S. immigration officials insisted that their sexual orientation did not exempt them from metering or Remain in Mexico.
U.S. Rep. Raul Grijalva (D-Ariz.) wrote a letter to then-Acting Homeland Security Secretary Kevin McAleenan back in June, co-signed by 44 other House Democrats, requesting how many LGBTQ asylum seekers had been returned to Mexico, how they were screened and what legal services they had been provided.

“Forcing them to remain in Mexico or creating additional hardships in their asylum process only makes them more susceptible to the same violence that forced them from their home countries in the first place,” the lawmakers wrote.

The following month, they received a reply from Deputy Undersecretary James McCament, who declined to release details, citing ongoing lawsuits challenging Remain in Mexico.

“But I want to reiterate DHS’s commitment to the responsible implementation of this program as it applies to all populations, including (LGBTQ) asylum seekers and other vulnerable populations,” he wrote.

Back in Tijuana, just a few days before his number was called, Perez, Perla and Hernandez piled on top of Pedro’s bed in pajamas one Tuesday morning sharing a big box of cereal.

Perez gave the others careful instructions on which of his belongings they could take after he crossed into the U.S.

“Wait one week before giving away my bed, to make sure they don’t return me,” he told them.

Having spent most of his adult life in Guatemala hiding and hoping his neighbors wouldn’t discover he’s gay, Perez has only lived with other people a few times in his life.

When he was 13, living on the streets in Guatemala, he met an older man.

“He offered me a place to live. He offered me food, everything, but I didn’t know that he was part of the gay community. In the end, we became boyfriends,” he said.

Perez lived with his boyfriend for three years until he was 16 and they broke up.

“Things didn’t work out with him because I had grown up a little. I went back in the streets. I was trying to survive and fighting to live,” he said.

Another time, a friend let him hide in her apartment for a few weeks while his own family hunted him down to kill him, after an incident on his birthday.
For Perez's 26th birthday, his brother whom he hadn't spoken to in many years, made plans with him to go out and celebrate. The brother picked him up but there was no birthday party.

"It was only to hand me over to my father who wanted to beat me because I was gay. So, he beat me and my brother beat me really bad," said Perez. "I told them I was going to denounce them to the police, and so my father said if I denounced them to the police, he was going to make sure to kill me."

Out of fear, Perez said he never reported his father and brother to the police. "I just hid," he said. "I was just in hiding because I was afraid they would come to kill me."

On Christmas Eve in 2018, they found him. Two gang members arrived outside his building, yelling they wanted to kill him on behalf of his father.

"Your father wants to see you dead. He doesn’t want you to live because you are a shame to your family," he said they told him. His sister called to inform him that his father would search any city in Guatemala to find him and kill him.

But Perez wanted to live. So, he fled to Tijuana.

"It’s a struggle, but I’m not going to leave this world for lack of struggling. I’m going to fight for my life," he said.

In Tijuana, he became close friends with people from other countries, who had been through similar experiences.

His roommate, Hernandez, said she’s been attacked many times in Honduras.

"Like I told him and I tell the whole world, when you suffer difficult things in life, it's because in the end, you are going to have glory and peace," she told Perez.

"I feel like you're going to be very far away from me," Hernandez told Perez. "I adore you. I adore you. I adore you. I don't know when I'll see you again. But I know you're going to be free."

Perez said he was convinced he would one day be reunited with Hernandez and Perla.

During the ten months he spent stranded at the U.S.-Mexico border in Tijuana, Perez may not have found safety, but he did find a family that loves him.
Tab. 24.
MEXICO CITY (AP) — Rights officials expressed concern Tuesday after a second state congress in Mexico passed a “conscience objection” law that would allow medical personnel to refuse to perform procedures that violate their religious or ethical convictions.

The Council to Prevent Discrimination said a new law passed in the northern state of Nuevo Leon threatened people’s access to health care.

“Conscience objection should not under any circumstances lead to Nuevo Leon failing to provide health services to the public, above all if the motivation for that objection were based on acts that the law considers discriminatory,” the council said in a statement.

The governmental National Human Rights Commission has filed a Supreme Court appeal against the first law, approved in the central state of Morelos in August.

The commission argues that law is unconstitutional because it could restrict access to health care for women who seek an abortion. But it also noted the state rules could also impact people who are gay or HIV-positive.

“Medical personnel and nurses could deny services based on health reasons, including HIV and AIDS, or based on gender or sexual preferences,” the commission warned.

The court has yet to rule on that appeal.

Another state in northern Mexico passed a similar law Oct. 15. The Nuevo Leon state law, like the one in Morelos, says objections cannot apply in medical emergencies or
when a patient’s life is in danger.
Tab. 25.
Mexico is now the world’s second-deadliest country for trans people

LILY WAKEFIELD | SEPTEMBER 11, 2019

Mexico is now the world’s second most deadly country for transgender people after Brazil, but most murders go unsolved and unpunished.

A new study by Mexican LGBT+ rights organisation Letra Ese has shown that, between 2013 and 2016, at least 473 LGBT+ people have been killed in the country, and 261 of these were trans women.

According to the report, the last two years have been the most violent, with a 30 percent increase in the number of murders in relation to the average of previous years.

However, the study says that numbers are likely even higher due to a lack of data collection on crimes against LGBT+ people and that “due to fear of their sexual orientation being revealed, fear
of suffering more violence or distrust of law enforcement, many LGBT+ people prefer not to report when they have been victims of acts of discrimination and violence”.

Six out of 10 LGBT+ participants in the study said they had suffered discrimination during the last year, and more than half suffered hate, physical aggression and harassment.

According to the Associated Press, fewer than three percent of the killings of LGBT+ people have resulted in convictions since 2013.

More from PinkNews

Stars you didn’t know are gay or lesbian

Celebs you didn’t know have an LGBT sibling
Murderers go unpunished because law enforcement share their prejudice, the report says.

Letra Ese said in its report that police, prosecutors and judges often share the same prejudices that caused the hate crime in the first place, and that all LGBT+ people are defined by law...
enforcement as “homosexuals”.

It continued: “In ministerial investigations, prejudice is activated from the precise moment when a homicide victim is perceived as ‘homosexual’”.

It also said that perpetrators of hate crimes are often allowed to defend themselves using a gay or trans “panic” defence, in which the defendant claims the crime was a result of discovering the victim’s sexuality or gender identity.

Mexico is socially conservative and has a conflicting record on LGBT+ rights.

Equal marriage was legalised in 2009 in the semi-autonomous Mexico City, which is seen as being more progressive than the rest of the country, and in 2015 it was ruled that a ban on same-sex marriage was unconstitutional for the whole country.

However, less than half of the country’s 32 states allow same sex couples to wed, Reuters reported in April.

More: Brazil, letra ese, Mexico, Trans
Tab. 26.
Three well-known LGBT rights activists in Mexico were killed this weekend.

The bodies of Rubén Estrada, Roberto Vega and Carlos Uriel López were discovered by authorities on Sunday morning in popular tourist spot Taxco, a city between Mexico City and Chilpancingo, after they were kidnapped by a group of men from a nightclub.

President of LGBTI advocacy group, Diversidad Guerrero, Gaby Soberanis told the Washington Blade that a group of men had tried to extort money from the trio in the nightspot, when they refused she claims that the men returned and forcibly put them in a van.
Ruben Estrada was kidnapped and murdered on Sunday, along with his partner Carlos Uriel López and their friend Roberto Vega. All three men were LGBT activists (Facebook)

Their bodies were found a few hours later on a dirt road near the main highway between Mexico City and Acapulco.

Estrada, 35, was the main organiser of Taxco’s annual Pride march and a local gay beauty contest, while Vega and López, who was his partner, were also activists.

Images from local press suggest that the men were shot in the back of their heads and were tortured before they were killed.

Lol Kin Castañeda, a lesbian activist who is a member of the Mexico City Constituent Assembly tagged Guerrero Governor Héctor Astudillo a tweet demanding justice.

She wrote: “The loss is for a society that demands equality, freedom and an end to violence. We demand justice.”

At least 202 LGBT people have been murdered Mexico between 2014-2016, averaging six homicides a month.
Three LGBT activists murdered in Mexico after being kidnapped from nightclub in tourist spot

The figures show a disproportionate number of trans women were victims, making up 108 – more than half – of those murdered.

93 of the victims were gay men, while one lesbian woman was killed.

“Trans women are the most exposed to this type of lethal violence,” the report’s authors state.

“It is the first time that the number of trans women murdered exceeds the number of gays,” they added.

More from PinkNews

Stars you didn’t know are gay or lesbian
Mexican civil rights organisation Letra S SIDA reported that criminals had formed gangs dedicated to targeting gay men, whom they first seduce before attacking and robbing them.

Speaking to news site EFE, Letra S SIDA executive director Alejandro Brito said this worrying trend was unprecedented.

“We hadn’t seen gang attacks before, like those that occur in the United States or Europe.”

The most homicides in the period were recorded in 2016, when 76 LGBT people were killed.

The group found that 33 of the victims’ bodies showed signs of torture and 15 showed signs that they had been subjected to sexual violence – figures which the report’s authors warn could be higher.

Only 64 suspects were identified for the 202 murders – less than one-third – while just 17 of the cases were classified as primarily a hate crime.
Tab. 27.
En cinco años mataron a 381 LGBT en México; policías y religiosos inducen a crímenes de odio: CNDH

Por EFE
SinEmbargo
mayo 17, 2018
5:45pm
0 Comentarios

SECCIÓN méxico

Con motivo del Día Internacional contra la Homofobia, Transfobia y Bifobia, que se celebra este 17 de mayo, la ONG publicó su reporte anual que identificó que en los últimos cinco años fueron asesinadas 381 personas LGBT o que eran percibidas como tales, presuntamente por su orientación sexual o identidad de género.
Letra S registró 84 homicidios en 2013, seguidos de 65 en 2014, 61 en 2015, 76 en 2016 y 95 en 2017, un repunte sustancial que Brito atribuyó, en parte, a la ola de violencia que padece el país, que sumó 25 mil 339 asesinatos el pasado año, la cifra más alta en dos décadas.

La CNDH denunció que en el país hay “cada vez mayor intolerancia de integrantes de policías, servicios de salud y asociaciones religiosas, que pueden derivar en crímenes de odio”.

**LA HOMOFOBIA Y LOS MEXICANOS EN CIFRAS**

De enero de 2014 a diciembre de 2016, 202 personas de la comunidad LGBTI, o percibidas como tales, fueron asesinadas en el país por su orientación sexual, identidad o expresión de género. Del total, 108 fueron contra mujeres trans (travestis, transgénero y transexuales), 93 a hombres gays u homosexuales, y uno relativo a mujeres lesbianas.

65% mexicanos no está de acuerdo con la adopción de niños por parte de parejas del mismo sexo.

61% está en contra de la legalización del matrimonio igualitario.

35% dijo que alguna vez se le negó un empleo por su orientación sexual e identidad de género.

26% fue despedido por su orientación sexual e identidad de género.

35% por ciento de los consultados ha sufrido discriminación por los jefes o compañeros de trabajo.

Fuente: Asillegal, Parametría y CNDH

**ADEMÁS**

Somos el segundo país con más crímenes contra la comunidad gay: 202 asesinatos en 2 años

**Por Martí Quintana**

México, 16 may (EFE).- Pese a una mejora en derechos, los crímenes de odio contra el colectivo lésbico, gay, bisexual y transexual (LGBT) no disminuyeron en México en el mandato de Enrique Peña Nieto, registrándose 381 asesinatos en los últimos cinco años.

“No han disminuido estos actos de violencia de homicidios contra personas LGBT, e incluso tenemos la sospecha de que se incrementaron pese a los avances en el
Con motivo del Día Internacional contra la Homofobia, Transfobia y Bifobia, que se celebra este 17 de mayo, la ONG publicó su reporte anual que identificó que en los últimos cinco años fueron asesinadas 381 personas LGBT o que eran percibidas como tales, presuntamente por su orientación sexual o identidad de género.

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Pese a que los datos no aparecen en el informe, en el primer cuatrimestre del año Letra S contabilizó al menos 24 asesinatos de personas LGBT.

“Tenemos casos de víctimas del crimen organizado, y son presuntamente crímenes de odio porque cobran derecho de piso (extorsión) a trabajadoras sexuales trans, y si no pagan, las asesinan”, explicó el activista.

Entre 2013 y 2017 fueron asesinados 158 hombres gais (41 por ciento del total), seis hombres bisexuales, tres mujeres lesbianas y cinco hombres de los que se desconoce su identidad de género, siendo el colectivo de mujeres trans (travestis, transgénero y transexuales) el más afectado con 209 muertes (55 por ciento).

“A diferencia de los demás colectivos están imposibilitadas de no ser visibles, y la visibilidad pública las expone a riesgos”, apuntó Brito.
ADEMÁS

Candidato de MC promete entregar “nuevos módulos de maquinaria” a la comunidad LGBT (VIDEO)

Por estados, Veracruz, en el oriente, es el que registra mayores índices con 30 casos, le siguen el norteño estado de Chihuahua, con 28 casos, y el suroriental Quintana Roo, con 27.

El Estado de México (centro), el más poblado del país, y Guerrero (sur), sumaron 25 muertes cada uno.

Brito denunció la saña con la que se asesina, pues hay casos con más de 30 cuchilladas, otros cadáveres maniatados, asfixiados o quemados, e incluso el caso de una chica trans a la que le cortaron los genitales.

Además, 14 de las víctimas eran defensoras y promotoras de los derechos LGBT, si bien se hace difícil conocer si el móvil del crimen fue su activismo, dijo el director de la ONG.

Ello se debe a la falta de información, pues en las fiscalías se otorga poca relevancia a la orientación sexual, y solo se menciona un posible crimen de odio en 10 por ciento de los casos.
Por ello, y por la dificultad de acceder a expedientes, Letra S elabora el informe con base en más de 800 artículos publicados en medios del país.

“Es la falta de recolección de datos oficiales el principal obstáculo para enfrentar el problema”, remarcó Brito.

Positivamente, el defensor de derechos LGBT resaltó avances en México desde el arribo a Peña Nieto al poder, en diciembre de 2012.

Por ejemplo, una posición más marcada a nivel exterior en defensa de los derechos y avances como el reconocimiento del matrimonio entre parejas del mismo sexo en varias entidades y la decisión de la Suprema Corte en 2016 de declarar inconstitucional las leyes estatales que prohíben el matrimonio homosexual.

ADEMÁS

Veracruz lleva 18 crímenes por homofobia en 11 meses, pero la Fiscalía sólo reconoce uno, alerta ONG

Además, se reformaron los códigos penales de varios estados para introducir el odio como agravante en estos delitos, y en febrero pasado la Fiscalía General elaboró un protocolo de
actuación del personal en casos que involucren la orientación sexual o la identidad de género. “El reto es que se aplique”, apuntó.

Tampoco ha habido avances en educación, apuntó el activista, preocupado por el auge de movimientos conservadores como el Frente Nacional Por la Familia.

Todo ello ha repercutido en el proceso electoral rumbo al 1 de julio, cuando se elige al presidente y a quienes ocuparán otros 3.400 cargos públicos.

En la campaña apenas existe agenda progresista por parte de los candidatos, marcados por unas alianzas que incluyen partidos de izquierdas y de derechas, alertó Brito.

Por otro lado, destacó que aunque no aparezca en la campaña oficial, los medios sí cuestionan a los candidatos sobre estos temas, y el colectivo LGBT se ha acercado a todos ellos e impulsado plataformas.

**CNDH ALERTA POR LA DISCRIMINACIÓN Y TOLERANCIA**

La población lésbico, gay, bisexual y transexual en México enfrenta estigma y discriminación y una creciente intolerancia por parte de funcionarios y asociaciones religiosas, denunció hoy la Comisión Nacional de los Derechos Humanos (CNDH).

En el Día Internacional contra la Homofobia, Transfobia y Bifobia, el organismo denunció que en el país hay “cada vez mayor intolerancia de integrantes de policías, servicios de salud y asociaciones religiosas, que pueden derivar en crímenes de odio”.

Además, ello se traduce en falta de oportunidades y problemas familiares y escolares, por lo cual llamó a la sociedad y a las autoridades a “impulsar una cultura de respeto e inclusión”.

Para la Comisión, “es necesario implementar normas contra la discriminación que incluyan categorías protegidas tales como la orientación sexual, la identidad y la expresión de género”.

Asimismo, pidió armonizar leyes y normas locales con la Constitución, para que los “bandos municipales de policía y buen gobierno y otros reglamentos no sean utilizados como pretexto para la extorsión y acoso” contra el colectivo LGBT.
La CNDH se pronunció igualmente “en favor del reconocimiento legal de los matrimonios de las parejas del mismo sexo en todo el país”, pues hoy matrimonio homosexual sólo se acepta en varias entidades, aunque una decisión de la Suprema Corte en 2016 declaró inconstitucional las leyes estatales que prohíben el matrimonio homosexual.

De 2010 a 2017, la CNDH documentó 151 expedientes de queja por hechos motivados por prejuicios homofóbicos, lesbofóbicos, bifóbicos y transfóbicos.

En 27.8 por ciento de ellos las víctimas corresponden a varones homosexuales, 10.5 por ciento, a poblaciones transgénero y transexuales, y 3.3 por ciento a la población lésbica, en tanto que la entidad federativa donde más asuntos se identificaron fue Ciudad de México.

Adicionalmente, el Consejo Nacional para Prevenir la Discriminación (Conapred), junto a una decena de entidades, denunció en un boletín que los esfuerzos para corregir la orientación sexual y la identidad de género son “prácticas fraudulentas que atentan contra la dignidad, salud física, emocional y desarrollo libre de la personalidad”.

Integrantes de la comunidad lesbico gay participan en la Marcha de Orgullo LGBTITTI. Artemio Guerra, Cuartoscuro/Archivo
In Five Years, 381 LGBT People Have Been Killed; Police and the Religious Engender Hate Crimes: CNDH
Original Author: Martí Quintana
May 16, 2018

On the occasion of the International Day against Homophobia, Transphobia and Biphobia, which is celebrated on May 17, the NGO [Letra S] published its annual report that found that in the past five years 381 LGBT people, or people perceived as such, were murdered, presumably because of their sexual orientation or gender identity.

Letra S recorded 84 homicides in 2013, followed by 65 in 2014, 61 in 2015, 76 in 2016 and 95 in 2017, a substantial upturn that Brito attributed, in part, to the wave of violence that the country suffers from, which added 25 thousand 339 murders in the past year, the highest number in two decades.

The CNDH denounced that in the country there is “greater and greater intolerance from members of the police, health services and religious associations, which can lead to hate crimes”.

Despite an improvement in rights, hate crimes against the lesbian, gay, bisexual and transsexual (LGBT) collective did not decrease in Mexico during the mandate of Enrique Pena Nieto, registering 381 murders in the last five years.

“These acts of violence of homicides against LGBT people have not decreased, and we even have suspicion that they increased despite the advancements in the recognition of the rights of the collectives”, said the general director of the NGO Letra S, Alejandro Brito, today to Efe.

On the occasion of the International Day against Homophobia, Transphobia and Biphobia, which is celebrated on May 17, the NGO [Letra S] published its annual report that found that in the past five years 381 LGBT people, or people perceived as such, were murdered, presumably because of their sexual orientation or gender identity.

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Although the data do not appear in the report, in the first four months of the year Letra S documented at least 24 murders of LGBT people.

“We have cases of victims from organized crime, and they are presumably hate crimes because they extort trans sexual workers, and if the latter don’t pay, they are killed”, explained the activist.

Between 2013 and 2017, 158 gay men were killed (41 percent of the total), six bisexual men, three lesbian women and five men whose gender identity is unknown, with trans women (transvestites, transgender, and transsexuals) being the most affected with 209 deaths (55 percent).

1.
“Unlike other collectives they are unable of not being visible, and public visibility exposes them to risks”, pointed out Brito. By state, Veracruz, in the east, is the one that registers higher rates with 30 cases, followed by the northern state of Chihuahua, with 28 cases, and the southeastern Quintana Roo, with 27. The State of Mexico (central), the most populated in the country, and Guerrero (southern), added 25 deaths each.

Brito denounced the viciousness with which it is murdered with, since there are cases with more than 30 stabs, other corpses tied up, asphyxiated or burned, and even the case of a trans girl to whom they cut her genitals.

Furthermore, 14 of the victims were advocates and promoters of LGBT rights, although it is difficult to know if the motive of the crime was their activism, said the director of the NGO. This is because of an absence of information, since in the prosecutors’ offices little relevance is given to sexual orientation, and only is a possible hate crime mentioned in 10 percent of the cases.

Therefore, and due to the difficulty of accessing records, Letra S developed the report with more than 800 published articles in the country’s media.

“It is the absence of official data recollection the principal obstacle to confront the problem”, emphasized Brito.

Positively, the LGBT rights advocate highlighted the advancements in Mexico since Pena Nieto rose to power in December 2012.

For example, a more noticeable position in the exterior level in defense of the rights and advancements as well as the recognition of marriage between same-sex couples in various entities and the decision of the Supreme Court in 2016 to declare unconstitutional the state laws that prohibit homosexual marriages.

Furthermore, penal codes from various states were reformed to introduce hate as an aggravating circumstance in these crimes, and in this past February the Attorney General’s Office developed a protocol of action from the personnel involved in cases that involved sexual orientation or gender identity. “The challenge is that it is applied”, it pointed out.

There has also not been advancements in education, pointed out the activist, preoccupied with the rise of conservative movements such as the National Front for the Family.

All of that has affected in the electoral process heading to July 1, when the president and those that will occupy other 3,400 public positions will be elected.

On the campaign there barely exists a progressive agenda from the candidates’ part, marked by allegiances that include left- and right-wing parties, alerted Brito.

On the other hand, he emphasized that although it does not appear in the official campaign, the media does question the candidates regarding these topics, and the LGBT collective has approached all of them and pushed their platforms.

CNDH ALERTS FOR THE DISCRIMINATION AND TOLERANCE
The lesbian, gay, bisexual and transsexual population in Mexico faces stigma and discrimination and a growing intolerance on the part of officials and religious associations, reported today the National Commission of Human Rights (CNDH).

On the International Day Against Homophobia, Transphobia and Biphobia, the agency condemned that in the country there is ‘increasing intolerance of members of police, health services, and religious associations, which can lead to hate crimes.’

In addition, this translates to a lack of opportunities, as well as family and school problems, for which it called for society and the authorities to “propel a culture of respect and inclusion”.

For the Commission, “it is necessary to implement norms against discrimination that includes protected categories such as sexual orientation, gender identity and expression”.

Likewise, it asked to harmonize local laws and norms with the Constitution, so that the “municipal police blocs and a good government and other rules are not utilized as a pretext for the extortion and assault” against the LGBT collective.

The CNDH declared likewise “in favor of the legal recognition of the marriages of same-sex couples in all the country”, since today homosexual marriage is only accepted in various entities, even though a Supreme Court decision in 2016 declared unconstitutional state laws that prohibit homosexual marriage.

From 2010 to 2017, the CNDH documented 151 complaint records due to events motivated by homophobic, lesbophobic, biphobic and transphobic prejudices.

In 27.8 percent of them, the victims correspond to homosexual males, 10.5 percent, to transgender and transsexual populations, and 3.3 percent to the lesbian population, while the federal entity where more issues were identified was in Mexico City.

In addition, the National Council to Prevent Discrimination (Conapred), along with a dozen of entities, condemned in a newsletter that the efforts to correct sexual orientation and gender identity are “fraudulent practices that threaten against the dignity, physical and emotional health, and the unrestricted development of the personality”.
I, Natalie Nicole Trinidad Lira, am competent to translate from Spanish into English, and certify that the translation of Article: “En cinco años mataron a 381 LGBT en México; policías y religiosos inducen a crímenes de odio: CNDH” is true and accurate to the best of my abilities.

__________________________
(signedature of translator)  Natalie Nicole Trinidad Lira
(typed/printed name of translator)

594 Dean Street, Brooklyn, NY, 11238
(Address of Translator)

212-714-2904
(telephone number of translator)
Tab. 28.
Leonardo Bastida Aguilar

Ciudad de México a 9 de abril de 2018

La madrugada del sábado, el abogado Armando Ocampo y su esposo, Sergio, fueron detenidos por la policía del municipio de Monterrey, Nuevo León al interior del restaurante Palax, después de haber sido seguidos por dos patrullas de la policía municipal por varias calles mientras iban a bordo de un automóvil del servicio de transporte Uber.

Tras salir del Bar La Colorina de la capital neoleonesa, alrededor de las cinco de la mañana, la pareja solicitó el servicio de transporte. Una vez que lo abordaron para dirigirse al restaurante mencionado, las patrullas comenzaron a seguir al automóvil. Tras haber llegado al restaurante, los policías se bajaron e ingresaron al lugar para detener, en primer lugar, a Sergio, quien aún no alcanzaba a sentarse en la mesa. Y posteriormente a Armando, quien ya estaba sentado en una mesa del lugar e increpó a las autoridades para saber cuál era el motivo de la detención.

Este se negó a ser esposado por lo que los policías comenzaron a forcejar con él hasta que el rompieron la camisa y le bajaron los pantalones, sacándole a rastras del lugar, en calzoncillos. A ambos les tuvieron arriba de la patrulla sin avanzar y sin explicarles el motivo de su detención.

Posteriormente, tras media hora, fueron conducidos a un Centro de Orientación y Denuncia (Code) en La Alamey. Allí, los policías dijeron que estaban detenidos por haber causado una riña. Armando negó los hechos, por lo que fue conducido al interior del lugar, donde fue amarrado a un tubo para ser golpeado, siendo lastimado en la cara y en una de sus piernas. Al percatarse del hecho, Sergio comenzó a gritar que no dejaran en paz, por lo que se lo llevaron a otro espacio. Allí adentro los escupieron y recibieron constantes insultos por parte de quienes estaba a cargo del lugar.

Una vez en el separo, Sergio se dio cuenta de las lesiones de Armando y pidió ayuda por Facebook y a su familia, que radica en el lugar, y a la cual habían acudido a visitar por motivos personales. A las 9:30 de la mañana, en el Code habían dicho a la abogada de Sergio y Armando, Miriam Silva, que ya habían salido, información que fue falsa, pues les permitieron salir hasta las 10:30 de la mañana. El cargo que se les impuso fue el de haber provocado una riña. Al salir
del lugar, le fue entregado a Armando un anillo, un cinturón y un billete como parte de sus pertenencias personales. Su celular, su reloj y su cartera que portaba ese día, no aparecieron.

Hasta el momento se sabe que las unidades que llevaron a cabo la detención fueron la 311 y 417 de la Policía Municipal de Monterey, una de ella con placas RJ99163.

La pareja ya se encuentra en la ciudad de México y anunció que dará seguimiento a la denuncia interpuesta en contra de quienes realizaron la detención así como a la queja interpuesta ante la Comisión Estatal de Derechos Humanos.

Organizaciones como LGBT Guanajuato y la Coalición Mexicana LGBTITI+ han condenado los hechos.

archivadas en: Diversidad sexual, NotiEse

Deja una respuesta

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Publicar el comentario
Monterrey police assault gay lawyer and his partner
Original author: Leonardo Bastida Aguilar
Mexico City on April 9, 2019

On the early morning of Saturday, attorney Armando Ocampo and his spouse, Sergio, were arrested by police from the municipality of Monterrey, Nuevo Leon inside the Palax restaurant, after being followed by two municipal police patrol vehicles through several streets while they were on board an Uber transport service automobile.

After leaving the Bar La Colorina in the Nuevo Leon capital, at around five in the morning, the couple requested transport service. Once they got in to head to the aforementioned restaurant, the police patrol vehicles began to follow the car. After arriving at the restaurant, the policemen got out and entered the place to arrest, in the first place, Sergio, who still had not sat at the table. And later Armando, who was already sitting at a local table and rebuked the authorities to find out what was the reason for the arrest.

He refused to be handcuffed so the policemen began to struggle with him until they ripped his shirt and pulled his pants down, dragging him out of the place, in his underpants. They both were held inside the patrol vehicle without moving forward and they were not given an explanation regarding the reason for their detention.

Later, after half an hour, they were taken to a Guidance and Complaint Center (Code) in La Alamey. There, the police said they were being detained for causing a fight. Armando denied the accusations, for which he was taken inside the center, where he was tied to a tube to be beaten, he was hurt in the face and one of his legs. Upon realizing what was happening, Sergio began to yell that they leave him alone, so they took him to another space. There they were spat on and received constant insults from those in charge of the center.

Once in the cell, Sergio saw Armando’s injuries and asked for help on Facebook and his family, who lives in the city, and who they had been visiting for personal reasons. At 9:30 in the morning, Code they had told Sergio and Armando’s lawyer, Miriam Silva, that the two men had already left, information which was false, since they were allowed to leave until 10:30 in the morning. The charge they were accused with was having provoked a fight. Upon leaving the center, Armando was given a ring, a belt and a money bill as part of his personal belongings. His cell phone, his watch and his wallet, which he had with him that day, did not appear.

Until now it is known that the units who undertook the arrest were the 311 and 417 units from the Municipal Police of Monterey, one of them with the vehicle plates RJ99163.

The couple is already in Mexico City and announced that they will continue with the lawsuit filed against those that made the arrest, as well as the complaint filed at the National Human Rights Commission.
Organizations such as LGBT Guanajuato and the LGBTTTI+ Mexican Coalition have condemned the incident.
CERTIFICATE OF TRANSLATION

I, ______ Natalie Nicole Trinidad Lira, am competent to translate from ______ Spanish ______ into English, and certify that the translation of ______ Article: “Policía de Monterrey agrede a abogado gay y su pareja” (Name of Document) ______ is true and accurate to the best of my abilities.

__________________________
(signature of translator)

Natalie Nicole Trinidad Lira
(typed/printed name of translator)

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Tab. 29.
Denuncian agresión pareja lésbica en Zuazua

Si quiero te mato, amenaza elemento de la policía municipal.

Foto: POSTA.

Melva Frutos

Domingo, Marzo 11, 2018 - 15:25
NUEVO LEÓN.- Una pareja lésbica denunció que fue abusada física y moralmente por policías del municipio de Zuazua, por su preferencia sexual.

Los hechos sucedieron el viernes 2 de marzo, cuando Norma Leticia Amaya Esquivel tuvo un problema con el hermano de su pareja sentimental, Antonia Guadalupe Moya Álvarez, que derivó en allanamiento de morada, golpes y amenazas de muerte por parte de dos policías municipales.

Un hombre y una mujer policía, a bordo de la patrulla número 02 llegaron hasta su domicilio en la colonia Real de Palmas y entraron por la fuerza, “el hombre policía entró y se fue contra mí. Me empezó a decir que yo era una machorra, que eso me gustaba, que me iba a pegar como hombre porque eso es lo que me creía”, detalla Norma Leticia.
Denuncian agresión pareja lesbica en Zuazua | POSTA

Antonia Guadalupe trató de evitar las agresiones hacia su pareja y fue golpeada por la mujer policía.

Según las denunciantes, valiéndose de su posición, el hombre le advirtió que podría hacer lo que quisiera e incluso podría quitarle la vida.

“Dijo ‘yo puedo hacer lo que yo quiera y si quiero ahorita te llevo a otras partes, con otras gentes y si quiero te mato’.

Norma Leticia fue llevada a las celdas de la policía de Zuazua, en donde asegura, no se le practicaron los exámenes correspondientes ni se le puso a disposición del Ministerio público.

Fue encerrada por más de 12 horas y se le cobró una multa de 300 pesos.

Pese a que los policías les advirtieron que si denunciaban, una de ellas iba a amanecer decapitada y la otra sin un pecho, las afectadas interpusieron una denuncia ante el CODE de ese municipio y ante la Comisión Estatal de Derechos Humanos.

El líder del Movimiento por la Igualdad en Nuevo León, Mario Rodríguez Plata, declaró que lo más grave es la impunidad con la que se maneja la policía de Zuazua y afirmó que no es el primer caso de abuso, pero sí el primer
caso que se denuncia.

“Con esto decimos que el señor alcalde, Hernán Chapa, ha sido omiso, no ha querido recibir las llamadas de nadie, hemos querido hablar con él y se ha negado”, dijo Rodríguez Plata.

El líder del Movimiento LGBT acusó que en dicho municipio hay una fuerte situación de inseguridad, que atañe a toda la sociedad, pero que específicamente para su comunidad, hay discriminación.

“También los hombres gays, mujeres lesbianas, hombres y mujeres trans, somos ciudadanos, aquí el tema es que aunado a la inseguridad le metes el tema de discriminación”.

Rodríguez Plata exigió que se tomen cartas en el asunto por parte de la autoridad estatal y que deriven en consecuencias penales.

“Tiene que haber consecuencias legales y penales, ellos deben ser destituidos y entregados a la cárcel, esto es un delito grave”, señaló.

Las afectadas aseguraron que ni el alcalde, Hernán Chapa, ni la directora de policía, a quien sólo identificaron como Jasmin, las han atendido.
Lesbian couple report aggression in Zuazua
Original author: Melva Frutos
March 11, 2018

A lesbian couple reported that they were physically and morally abused by police from the municipality of Zuazua because of their sexual orientation.

The events occurred on Friday, March 2, when Norma Leticia Amaya Esquivel had a problem with the brother of her romantic partner, Antonia Guadalupe Moya Alvarez, who instigated the breaking and entering, the beatings and death threats from two municipal police officers.

A male and female police officer, aboard the patrol vehicle number 02, arrived at their home in the Real de Palmas neighborhood and entered by force, ‘the policeman came in and went after me. He began to tell me that I was a machorra (dyke), that I liked that, that he was going to beat me like a man because that’s what I thought I was,’ explains Norma Leticia.

Antonia Guadalupe tried to prevent the aggressions towards her partner and was beaten by the policewoman.

According to the complainants, abusing his authority, the policeman warned her that he could do whatever he wanted, even killing her.

“He said ‘I can do whatever I want and if I want to I will take you to other places right now, with other people and if I want to I will kill you’.

Norma Leticia was taken to the jail from Zuazua’s police department, where she states that she was not examined and was not referred to the Public Prosecutor’s office.

She was locked up for more than 12 hours and was fined 300 pesos.

Although the police warned them that if they reported the incident, one of them was going to wake up decapitated and the other without a breast, the victims filed a complaint with that municipality’s CODE1 and with the National Human Rights Commission.

The leader of the Movement for Equality in Nuevo Leon, Mario Rodríguez Plata, said that the most serious thing is the impunity with which the Zuazua police operate and affirmed that it is not the first case of abuse, but it is the first case that is reported.

1 Guidance and Complaint Center
The leader of LGBT Movement reproached that in said municipality there is an intense lack of public safety situation, which affects all of society, but that specifically for his community, there is discrimination.

“There are also gay men, lesbian women, transgender men and women, we are citizens, the matter here is that combined with the lack of public safety you put the topic of discrimination”.

Rodriguez Plata demanded that actions be taken from the state authority part and that it leads to penal consequences.

“There has to be legal and penal consequences, they have to be dismissed and handed over to jail, this is a serious crime”, he emphasized.

The victims assured that neither the mayor, Hernan Chapa, nor the police director, whom they only identified as Jasmin, have helped them.
CERTIFICATE OF TRANSLATION

I, __Natalie Nicole Trinidad Lira__, am competent to translate from __Spanish__ into English, and certify that the translation of __Article:__

“Denuncian agresión pareja lésbica en Zuazua” (Name of Document) is true and accurate to the best of my abilities.

__________________________________ ____________
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Tab. 30.
Asesinan a universitario; "crimen de odio": UACM

Fue hallado sin vida en la delegación Venustiano Carranza, después de haber estado en un bar gay ubicado en la Zona Rosa.

Redacción AN

Isaac Luna García, estudiante de la Universidad Autónoma de la Ciudad de México (UACM), fue localizado sin vida en la delegación Venustiano Carranza, el pasado 17 de febrero.

Luego de haber acudido al bar gay Baby, ubicado en la Zona Rosa, Isaac, de 19 años, fue encontrado muerto en la calle Oriente 166, colonia Moctezuma, 2ª sección.

Ante el homicidio de Isaac, quien estudiaba la licenciatura en Arte y Patrimonio Cultural, la Universidad informó que se trata de un crimen de odio.

“Dado el contexto de violencia contra las mujeres y las comunidades de la diversidad sexual y las circunstancias del hecho, la hipótesis más fuerte es que se trata de un crimen de odio”, señala un comunicado.

Ante estos hechos, la UACM exigió a las autoridades capitalinas una investigación clara ante un crimen atroz e inaceptable, que se encuentre y procese a los culpables y que esto se realice con el cuidado de no revictimizar a Isaac, a su familia, amigos y comunidad, preservando la información del caso y dándole el tratamiento adecuado para respetar la dignidad de la víctima y de su familia.

La comunidad universitaria también pidió establecer mecanismos de seguridad en la Zona Rosa para permitir el uso y disfrute de dicho espacio emblemático para la comunidad gay y LGBTTIQ de la capital mexicana.

Las autoridades de esta casa de estudios establecieron comunicación con la Oficina General de Justicia de la Ciudad de México, ante quien se demandó atención inmediata y una investigación a fondo de este nuevo caso de violencia contra los jóvenes de la Ciudad, precisa la petición dirigida al procurador capitalino Edmundo Porfirio Garrido Osorio.

La UACM se comprometió a brindar apoyo para cualquier trámite legal, así como asesoría psicológica a la familia y destacó que realizó una petición a Change.org para exigir la justicia en el caso de Isaac.
“Esta casa de estudios lamenta la muerte innecesaria y llena de hostilidad contra nuestro compañero estudiante, exige una pronta resolución y justicia, y se mantiene en contacto continuo con las autoridades de la Ciudad hasta que aparezcan resultados que resuelvan las demandas de una familia, amigos, compañeros, maestros y comunidad universitaria que se ve profundamente vulnerada”, concluye el comunicado.
University student killed; “hate crime”: UACM

He was found dead in the Venustiano Carranza district, after having been in a gay bar located in the Zona Rosa.

Original author: Editorial Board AN
February 24, 2018

Isaac Luna Garcia, student at the Autonomous University of Mexico City (UACM), was found dead in the Venustiano Carranza district, on February 17.

After having gone to the gay bar Baby, located in the Zona Rosa, Isaac, age 19, was found dead in Calle Oriente 166, Colonia Moctezuma, 2a Seccion.

Faced with the murder of Isaac, who was studying a degree in Art and Cultural Heritage, the University reported that it is a hate crime.

“Given the context of violence against women and communities of sexual diversity and the circumstances of the event, the strongest hypothesis is that it is a hate crime”, a statement said.

Due to these circumstances, the UACM demanded a clear investigation to capital authorities afore an atrocious and unacceptable crime, that the guilty parties are found and processed and that this is done with the care of not revictimizing Isaac, his family, friends and community, preserving the information from the case and giving it the adequate treatment to respect the dignity of the victim and his family.

The university community also asked that security mechanisms be established in the Zona Rosa to allow the use and enjoyment of this emblematic space for the gay and LGBTTIQ community of the Mexican capital.

The authorities of this educational household established communication with Attorney General’s Office of Mexico City, to whom it was demanded immediate attention and an in-depth investigation of this new incident of violence against young people in the City, precisely the petition aimed at capital attorney Edmundo Porfirio Garrido Osorio.

The UACM pledged to give support for any legal matter, as well as psychological consultations for the family, and emphasized that it created a petition at Change.org to demand justice in Isaac’s case.

“This educational household laments the unnecessary and hostile death against our fellow student, requests a prompt resolution and justice, and remains in constant contact with the City’s
authorities until results emerge that resolve the demands of a family, friends, colleagues, teachers and university community that is found to be deeply vulnerable”, concludes the statement.
CERTIFICATE OF TRANSLATION

I, Natalie Nicole Trinidad Lira, am competent to translate from Spanish into English, and certify that the translation of Article: “Asesinan a Universitario; “crimen de odio”: UACM” is true and accurate to the best of my abilities.

__________________________________
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Tab. 31.
El catolicismo detrás de los crímenes homofóbicos en el mundo

Lau Almaraz  LUNES, 22 DE ENERO DE 2018 13:03

254 SHARES
La Iglesia Católica tiene gran influencia en gobiernos conservadores, lo que provoca discriminación hacia la comunidad LGBT

Como una enfermedad. Así es vista la homosexualidad ante los ojos de la Iglesia Católica. Aquellos que piensen lo contrario y que, además, lo manifiesten, son excomulgados y acusados de herejes. El peor destino, quizá, es para quienes se declaran abiertamente homosexuales en una tierra en donde la libertad de género provoca cientos de muertes.

En países como Brasil o México, los crímenes por homofobia aumentan cada día, tanto que hasta el año pasado, ambas naciones ocuparon los dos primeros lugares en donde se cometen más crímenes en contra de la comunidad LGBT.

¡Pequeño gran héroe! Conoce al niño que
Distintas organizaciones, entre ellas la denominada “Grupo Gay de Bahía”, indicaron recientemente que en Brasil es en donde se cometen la mitad de la totalidad de los crímenes en contra de personas abiertamente LGBT. El catolicismo, acusan, está detrás de este tipo de asesinatos en los que también los gobiernos conservadores tienen mucho que ver.

Protestas en Brasil por crímenes de odio en donde se acusa a la Iglesia Católica. (Foto: Commons)

La revelación de un estudio realizado por Grupo Gay de Bahía, liderado por el antropólogo Luiz Mott, indicó que en Brasil aumentó la violencia en contra de la comunidad LGBT debido a la prominencia de los políticos ultraconservadores,
los cuales están vinculados directamente a la bancada evangélica del país.

Los cariocas ostentan el título de ser los que más millones de creyentes católicos tienen en el mundo, con 123 millones de fieles. La influencia de la religión en muchos de los ámbitos de la sociedad en Brasil es alta. La libertad de género no está exenta de ello. Brasil alcanzó en el 2017 un número de 445 víctimas por homofobia, su máximo en la historia.

Nuestro país no queda lejos de esta terrible realidad para la comunidad LGBT, pues de 2015 a 2017, fueron asesinadas por su orientación sexual 202 personas. Aquí también la Arquidiócesis Primada de México publicó diversos textos en los que afirman que «a quien tiene una desviación sexual, la Iglesia quiere ayudarle a controlarla, no a entregarse a ella».
México ocupa el segundo lugar mundial en crímenes en contra de la comunidad LGBT. (Foto: Ansa Latina)

Las diversas organizaciones que están a favor de la comunidad LGBT en el mundo aseguran que las creencias religiosas y la política no deberían ir de la mano y menos en naciones declaradas laicas constitucionalmente. Señalan en Amnistía Internacional Brasil que «en la última década se buscó producir políticas que pudieran proteger a grupos vulnerables como gays y personas trans, pero fracasaron en su mayoría, debido a un cambio en la visión de la política», según Jurema Werneck, director ejecutivo de AI Brasil.

En México, incluso, hay recintos clandestinos en los que se intenta "curar" la homosexualidad a través de la palabra de Dios. Ahí se les minimiza y se les agota psicológica y físicamente a aquellos que son enviados por familiares o amigos para que la "enfermedad" se les "vaya del cuerpo" y regresen a interpretar el papel que la iglesia les dio en esta vida.

Pese a que se indique que se vive en naciones que aceptan y practican la tolerancia en referencia a los derechos de la comunidad LGBT, aún son muchas las personas que, influenciadas por la Iglesia Católica, cometen no sólo
discriminación ante la libertad de género y quienes la practican, sino también crímenes de odio que se siguen replicando alrededor del mundo.

Podría interesarte:

"México no es un país homofóbico", dice precandidato gay independiente que busca la presidencia

Así "curan" la homosexualidad los médicos rusos

Publicar la lista de sacerdotes homosexuales es combatir la homofobia con más homofobia

ETIQUETAS: Derechos Humanos Homosexuales Iglesia católica


Lau Almaraz
Periodista egresada de la FES Acatlán.
The Catholicism behind the homophobic hate crimes in the world
Original author: Lau Almaraz
January 22, 2018

The Catholic Church has great influence on conservative governments, which provokes discrimination against the LGBT community.

Like an illness. That is how homosexuality is seen before the eyes of the Catholic Church. Those that think otherwise and that, in addition, manifest it, are excommunicated and accused of being heretics. The worst fate, perhaps, is for those that openly declare themselves homosexuals in a land where the freedom of gender provokes hundreds of deaths.

In countries such as Brazil or Mexico, homophobic crimes are increasing every day, so much so that until last year, both nations occupied the first two places in most crimes committed against the LGBT community.

Different organizations, among them the denominated “Gay Group of Bahia”, recently indicated that in Brazil is where half of the total number of crimes against openly LGBT persons are committed. Catholicism, they accuse, is behind these types of murders in which conservative governments also have much to do with them.

The revelations of a study done by Gay Group of Bahia, led by anthropologist Luiz Mott, indicated that, in Brazil, the violence against the LGBT community increased given the prominence of ultraconservative politicians, who are directly linked to the evangelical bench of the country.

Those from Rio de Janeiro hold the title of being the ones with having the most millions of Catholic believers in the world, with 123 million faithful followers. The influence of religion in many of society’s areas in Brazil is high. Freedom of gender is not exempt from it. In 2017, Brazil reached a number of 445 victims due to homophobia, its maximum in history.

Our country is not far from this terrible reality for the LGBT community, as from 2015 to 2017, 202 people were killed because of their sexual orientation. Here, too, the First Archdiocese of Mexico published several texts in which they affirmed that ‘whoever has a sexual deviation, the Church wants to help them control it, not to give themselves into it.’

The diverse organizations in favor of the LGBT community worldwide claim that religious beliefs and politics should not go hand in hand, let alone in nations constitutionally declared secular. In Amnesty International Brazil, they point that ‘it was sought in the last decade to produce policies that could protect vulnerable groups such as gay and trans people, but they
failed for the most part, due to a change in the political vision’, according to Jurema Werneck, executive director of AI Brazil.

In Mexico, there are even clandestine places where homosexuality is attempted to be ‘cured’ through the word of God. There, those that are sent by family members or friends are minimized and exhausted psychologically and physically so that the “illness leaves their bodies” and for them to return to the role that the church gave them in this life.

Although it is indicated that one lives in 

nations which accept and practice tolerance

in regards to the rights of the LGBT community, there are still many people that, influenced by the Catholic Church, commit not only discrimination before freedom of gender and those that practice it, but also hate crimes that continue being replicated around the world.
CERTIFICATE OF TRANSLATION

I, Natalie Nicole Trinidad Lira, am competent to translate from Spanish into English, and certify that the translation of Article: “El catolicismo detrás de los crímenes homofóbicos en el mundo” is true and accurate to the best of my abilities.

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Tab. 32.
The lives and safety of Lesbian, Gay, Bisexual, Transgender and Intersex people (LGBTI) from violence-ridden El Salvador, Guatemala and Honduras are at an increased risk as authorities in their countries fail to protect them, leaving them with no choice but to flee their countries and face further dangers in Mexico, Amnesty International said in a new report today.

*No Safe Place* uncovers the treacherous journey faced by gay men and trans women refugees fleeing rocketing levels of discrimination and gender-based violence in El Salvador, Guatemala and Honduras from criminal gangs and members of security forces. It also accuses Mexican authorities of failing to protect them from violations and abuses while travelling through the country, and highlights unbearable experiences during prolonged and systematic immigration detention in the USA.
“People are facing vicious discrimination in Central America due to their gender identities, and have absolutely nowhere to run for safety,” said Erika Guevara-Rosas, Americas Director at Amnesty International.

“Terrorized at home, and abused while trying to seek sanctuary abroad, they are now some of the most vulnerable refugees in the Americas. The fact that Mexico and the USA are willing to watch on as they suffer extreme violence is, simply, criminal.”

Erika Guevara-Rosas, Americas Director at Amnesty International

El Salvador, Guatemala and Honduras have some of the highest murder rates on earth – 81.2 per 100,000 inhabitants in El Salvador, 58.9 in Honduras and 27.3 in Guatemala, according to official figures.

Most refugees and asylum-seekers who spoke to Amnesty International said constant discrimination and the levels of violence they suffered in their countries – including physical attacks and financial extortion at the hands...
of criminal gangs and killings – made them feel they had no choice but to flee.

The high levels of impunity and corruption in their countries mean authorities are unlikely to punish those responsible for crimes against LGBTI people, particularly when security forces are responsible for the attacks.

According to the Honduran NGO Cattrachas, 275 LGBTI people were killed in the country between 2009 and 2017. In most cases, those responsible were never brought to justice.

Carlos, from Honduras, was forced to flee to Mexico after he was violently attacked and threatened with death by a criminal gang for being gay.

He told Amnesty International, “I never tried reporting [the abuse] because of what happened to some friends. As soon as a friend of mine reported the abuse, those who had committed it went to his house to get him. That’s why he ran away to Mexico. Another friend was killed right after he reported what had happened to him.”

“A frightening journey

Amnesty International found in the cases documented that the brutality suffered by gay men and trans women in Central America does not end after they leave their countries.

Most of the people interviewed for the report said they suffered further discrimination and violence, including at the hands of public officials, in Mexico, where high levels of violence against LGBTI people in general are reported. Many also said they didn’t feel safe in the country as many of the criminal gangs who threatened them back home operate across the southern Mexican border.
According to a study by the United Nations High Commissioner for Refugees, two thirds of the LGBTI refugees from Central America they spoke to in 2016 and 2017 had suffered sexual and gender-based violence in Mexico.

Several gay men and trans women also told to Amnesty International that they were never properly informed about their rights to seek asylum in Mexico, despite the extreme danger they would face if sent back home. They also complained that Mexican authorities did not inform them of any progress regarding investigations after they reported having suffered human rights abuses there.

Carlos told Amnesty International that, while in Mexico, immigration officials tried to discourage him from filing an asylum request. He eventually applied for asylum regardless and is still awaiting a decision.

A number of trans women who managed to survive the dangerous journey across Mexico and crossed the border to the USA complained of the treatment they received in detention. Others were deported from the USA and Mexico and sent back to their countries, to the nightmare they were desperately trying to escape from.

Cristel, a 25-year-old trans woman from El Salvador, told Amnesty International she was held in solitary confinement in US immigration facilities as soon as she crossed the Mexican US border to the USA in April 2017.
After a week, she was put in a small cell with eight men. Cristel eventually failed to secure asylum and was returned to El Salvador, where criminal gangs continue to threaten her.

“I don’t want to be illegal. I just want to live and be safe,” Cristel told Amnesty International.

“The more authorities in El Salvador, Honduras, Guatemala, Mexico and the USA fail to take action to protect some of the most vulnerable people in the Americas, the more blood they will have on their hands,” said Erika Guevara-Rosas.

“These governments must urgently take decisive action to tackle the epidemic levels of violence against LGBTI people in the region and improve their policies and practices to ensure that all those who are in need of international protection can access it.”

“The more authorities in El Salvador, Honduras, Guatemala, Mexico and the USA fail to take action to protect some of the most vulnerable people in the Americas, the more blood they will have on their hands”

Erika Guevara-Rosas, Americas Director at Amnesty International

- No Safe Place: Salvadorans, Guatemalans and Hondurans seeking asylum in Mexico based on their sexual orientation and/or gender identity (Report, 27 November 2017)
- USA-Mexico: Trump’s border crackdown pushes refugees into dangerous limbo (News/Report, 15 June 2017)
- Home sweet home? “If I stay, I’ll be killed” (Feature, 14 October 2016)
- Home Sweet Home?: Honduras, Guatemala and El Salvador’s role in a deepening refugee crisis (Report, 14 October 2016)
Tab. 33.
Este activista gay mexicano reconocido a nivel mundial fue asesinado

Julio César Zúñiga Palacios también era futbolista de una liga LGBT y la comunidad internacional está condenado el homicidio.

El martes 21 de noviembre, el activista gay Julio César Zúñiga Palacios fue, como todos los días, a trabajar a su estética en Tlalnepantla, Estado de México. Pero ese día todo cambió: dos sujetos llegaron a su local y le dispararon ocho veces. Julia, como era conocido entre sus amigos, fue asesinado a los 46 años frente a sus clientes.
Julia era un destacado activista y representante del deporte gay en México a nivel mundial. La víctima era integrante de la liga de Futbol Gay de Azcapotzalco, parte de la liga Didesex (Diversidad, Deporte y Sexualidad), y representó a México en torneos de futbol internacionales.

Zúñiga Palacios era parte de IGFLA, la Asociación Internacional de Futbol de Gays y Lesbianas, la cual lamentó su asesinato.
Este activista gay mexicano reconocido a nivel mundial fue asesinado

https://www.buzzfeed.com/mx/melissamezcua/este-activista-gay-mexicano-reconocido-a-nivel-mundial-fue#.my6qABG9LP
Iván Lara, coordinador deportivo de Didesex, aseguró a BuzzFeed News México que, además, Julia era militante del PRI en Tlalnepantla como jefa de sector de la región de El Rosario, por lo que este jueves, el Comité Municipal de Tlalnepantla le realizó un homenaje.

Las autoridades del Estado de México investigan el homicidio. No se ha confirmado si fue una agresión directa o un asalto. Sin embargo, Iván Lara afirmó que entre la comunidad LGBT no se debería descartar la hipótesis de que se trate de un crimen de odio.
Hay un dato más: en la misma colonia hubo otro asesinato en una estética, unos días antes.

“Hubo otro asesinato en otra estética en la misma colonia dos días antes, entonces podría yo tener miles de teorías en este momento. No descartamos que sea un crimen de odio, no lo descartamos obviamente, porque las cosas en el país y en el Estado de México han estado mal. No hemos progresado mucho en cuestiones de derecho y de poder enseñarle a la gente que somos iguales, que lo único que pedimos es igualdad. Juliasé la pasaba mostrándole al mundo que era una persona común, que ayudaba y quería a toda la comunidad más allá de sus orientaciones sexuales", contó Lara.
Miembros de las ligas gay de futbol de todo el mundo han lamentado el asesinato de Julia.

La Asociación Internacional de Futbol de Gays y Lesbianas lamentó su muerte: "Esta es una gran pérdida no solo para el mundo del fútbol LGBT sino también para todos sus amigos y familia... La extrañaremos mucho".

“Fueron seis años de luchar por la visibilidad (gay) en el deporte que en México aún no existe. Ella luchaba todos los días, tenía la camiseta de futbolista gay bien puesta, la llevaba a donde fuera y, por eso, mucha gente de muchas partes del mundo la quería, tenía una chispa muy especial”, expresó su amigo.

“Era una deportista, diario se levantaba al gimnasio, amaba a sus tres perros, los paseaba todas las mañanas, iba a abrir su salón, trabajaba todo el día y después iba a ayudar a su mamá, ella era su única hija; era el sustento de su familia”, añadió Iván.
This Gay Mexican Activist with Worldwide Renown Was Killed

Julio César Zúñiga Palacios was also a soccer player in a LGBT league and the international community is condemning the homicide.

Original Author: Melissa Amezcua
November 23, 2017

On Tuesday, November 21, gay activist Julio César Zúñiga Palacios went, like every day, to work at his beauty salon in Tlalnepantla, State of Mexico. But everything changed that day: two individuals arrived at his location and shot him eight times. Julia, as he was known among his friends, was murdered at age 46 in front of his clients.

Julia was a prominent activist and representative of gay sports in Mexico at the worldwide level. The victim was a member of the Gay Soccer League of Azcapotzalco, part of the Didesex (Diversity, Sports, and Sexuality) league, and represented Mexico in international soccer tournaments.

Zuniga Palacios was part of the IGFLA, the International Gay and Lesbian Football Association, which lamented her murder.

Ivan Lara, sports coordinated of Didesex, assured Buzzfeed News Mexico that, in addition, Julia was a member of the PRI in Tlalnepantla as head of the sector of the El Rosario region, for which this Thursday, the Municipal Committee of Tlalnepantla made a tribute for her.

The authorities of Mexico State are investigating the homicide. It has not been confirmed if it was a direct aggression or a robbery. However, Ivan Lara affirmed that within the LGBT community it should not be discarded the hypothesis that it is a hate crime.

There is another fact: there was another murder in a beauty salon in the same community, a few days beforehand.

“There was another murder in another beauty salon in the same community a few days beforehand, then I could have thousands of theories at this moment. We are not discarding that it is a hate crime, obviously we are not discarding it, because the things in this country and in Mexico State have been bad. We have not progressed much regarding rights and of being able of teaching people that we are equals, that the only thing we ask is equality. Julia would spend time showing the world that she was a regular person, who helped and loved the whole community past their sexual orientations”, Lara said.

Members of the gay soccer leagues around the world have lamented the murder of Julia.

The International Gay and Lesbian Football Association lamented her death: “This is a great loss not only for the world of LGBT soccer but also for all her friends and family… We will miss her a lot”.

1.
“It was six years of struggle for (gay) visibility in sports, which in Mexico still does not exist. She fought every day, had a gay soccer player shirt well put, she will take it with her wherever she went and, because of that, many people of many parts of the world loved her, she had a very special spark”, expressed her friend.

“She was an athlete, woke up daily to go to the gym, loved her three dogs, walked them every morning, went to open her salon, worked all day and later she went to help out her mom, she was her only child; was the foundation of her family”, added Ivan.
CERTIFICATE OF TRANSLATION

I, ____ Natalie Nicole Trinidad Lira ____, am competent to translate from ___Spanish____ into English, and certify that the translation of ____Article: “Este activista gay mexicano reconocido a nivel mundial fue asesinado” (Name of Document)____ is true and accurate to the best of my abilities.

__________________________________ __
(Natalie Nicole Trinidad Lira)
(signature of translator) (typed/printed name of translator)

594 Dean Street, Brooklyn, NY, 11238
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212-714-2904
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Tab. 34.
Denuncian dos asesinatos por homofobia, cada mes, en Edomex

Inicio / Justicia

24 de octubre de 2017

Mario Rodríguez/Quadratín Edomex

TOLUCA, Edomex, 24 de octubre de 2017.- En dos años la legislatura del Estado de México no ha dado seguimiento a la comunidad LGBT en la entidad, al hacer caso omiso de las reformas que tipifican como crimen pasional los ataques a este sector. En promedio se registran al mes 2.1 asesinatos por homofobia en el estado.
“Hemos tenido el cabildeo pertinente con todas las fracciones respecto a la exigencia de la tipificación de los crímenes de odio”, dijo en entrevista para Quadratín Estado de México, la presidenta del Cabildo Pro Diversidad Sexual, Patricia Mireles Sosa. En este entendido, mencionó que las reuniones con diputados de las diferentes fracciones parlamentarias han sido constantes y que apoyan en lo particular, pero es necesario puntualicen el andamiaje con la línea de sus partidos, lo que ha resultado en omisión a sus demandas.

Una de ellas es dejar de tipificar la LGBTfobia (el asesinato a miembros de estos colectivos) como crímenes pasionales y comenzar el abono por una figura diferente, es decir, el crimen de odio como delito referido a los ataques de este sector.

En esta tónica, la legislatura mexiquense, comentó, ha hecho caso omiso ya que de acuerdo a reuniones que han tenido, argumentan les falta leer diversos materiales documentales y estadísticas para comenzar la edificación de una figura jurídica que vele por este sector.

La también activista refirió que el Estado de México no es la única entidad en el país con esta problemática, pero sí una de las que visibiliza y contabiliza, de ahí la urgencia en crear dicha reforma. Siguen los crímenes de odio.

Al menos cada 30 días un promedio de 2.1 asesinatos son perpetrados en contra de la comunidad LGBT en el Estado de México, dijo Israfil Filos Real, presidente de la Asociación Grupos Vulnerables en el Estado de México, quien comentó que los municipios del oriente de la entidad son los que mayor incidencia de este crimen presentan.

Como ejemplo de estos casos, el que se registró en Metepec la semana pasada, en el que se presume la sexualidad de un profesor fue detonante del homicidio. Filos Real refirió que ante la falta de seguridad y certeza jurídica en este sector, se han visto orillados a implementar estrategias dentro de los propios colectivos del estado, en especial talleres de prevención.

“Lamentamos más que nos sigan matando por todo, nos siguen matando por mujeres, por ser indígenas, nos siguen matando por ser discapacitados, por ser de la tercera edad”, dijo en entrevista y rescató que la cifra aumentaría a 8.2 asesinatos mensuales en promedio si se hiciera la suma de estos sectores desprotegidos.

Cuautitlán, al mes registra un homicidio de este tipo, dijo el también activista. Ecatepec, Coacalco y Toluca también están dentro de la lista de los municipios que cuentan con registro de estos crímenes de acuerdo a información del colectivo.
TOLUCA, Edomex., October 24, 2017.— In two years, the Mexico State’s legislature has not followed up on the LGBT community of the state, by ignoring the reforms that criminalize the attacks on this sector. On average, 2.1 murders due to homophobia are registered per month in the state.

"We have had the pertinent lobbying with all the fractions regarding the demand of the classification of hate crimes," said in an interview for Quadratín Estado de México, the president of the Council for Sexual Diversity, Patricia Mireles Sosa. In this understanding, she mentioned that the meetings with deputies of the different parliamentary factions have been constant and that they support on the matter, but it is necessary to specify the scaffolding with the stance of their parties, which has resulted in omission of their demands.

One of them is to stop classifying LGBTphobia (the murder of members of these groups) as crimes of passion and to start endorsing for a different figure, that is, hate crime as a crime related to attacks in this sector.

In this vein, the Mexican legislature, she commented, has ignored it since, according to meetings they have had, they argue that they need to read various documentary and statistical materials to begin the construction of a legal figure that watches over this sector.

The also activist mentioned that Mexico State is not the only entity in the country with this problem, but it is one of those that makes it visible and accounts for it, hence the urgency to create such reform. Hate crimes continue.

At least every 30 days, an average of 2.1 murders are perpetrated against the LGBT community in the state of Mexico, said Israfil Filos Real, president of the Association for Vulnerable Groups in the state of Mexico, who commented that the municipalities in the eastern part of the state have the highest incidence of this crime.

As an example of these cases, one that was registered last week in Metepec, in which the presumed sexuality of a professor was the trigger for the homicide. Filos Real stated that given the lack of security and legal certainty in this sector, they have been forced to implement strategies within the state's own groups, especially prevention workshops.

"We regret more that they continue to kill us for everything, they continue to kill us for being women, for being indigenous, they continue to kill us for being disabled, for being elderly," he said in an interview and took back that the number would increase to 8.2 monthly murders on average if the sum of these unprotected sectors were made.
Cuatitlán, monthly, records a homicide of this type, said the activist. Ecatepec, Coacalco and Toluca are also included in the list of municipalities that have registered these crimes according to the association’s information.
CERTIFICATE OF TRANSLATION

I, Natalie Nicole Trinidad Lira, am competent to translate from Spanish into English, and certify that the translation of Article:

“Denuncian dos asesinatos por homofobia, cada mes, en Edomex” (Name of Document) is true and accurate to the best of my abilities.

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Tab. 35.
APENAS 10 % DE CRÍMENES DE ODIO EN MÉXICO SE ESCLARECEN

Samuel Vera Cortés

2017-08-20 - 12:21:52
Durante una conferencia presentada en la capitalina poblana, dijo que la gran mayoría de la víctima son del sexenio masculino; pero, además, reveló que es la Ciudad de México la que presenta la mayor incidencia: "En el país, son las zonas urbanas en que más casos se registran.

"A nivel nacional se tienen registrados unos mil 370 crímenes de odio, ejecutados en contra de personas de la comunidad Lésbico Gay, Bisexual y Transexual (LGBT), en los últimos 10 años hasta el 2016, de los cuales, se calcula que solamente el 10 por ciento se han resuelto y es resto son catalogados como crímenes pasionales, pero no lo crímenes de odio", aseguró Yussel Aguirre Bonifaz, psicóloga y criminología forense.

Además, destacó que la gran mayoría de esos crímenes son cada vez más violentos; sin embargo, señaló que es oficio tener una estadística clara, porque la gran mayoría no son denunciados o pasan por homicidios comunes que nada tienen que ver con los crímenes de odio, cuando al final tienen ese sello.

Durante una conferencia presentada en la capitalina poblana, dijo que la gran mayoría de la víctima son del sexenio masculino; pero, además, reveló que es la Ciudad de México la que presenta la mayor incidencia: "En el país, son las zonas urbanas en que más casos se registran."

Aguirre Bonifaz dijo que, en la sociedad mexicana actual, prevalece la intolerancia, porque en muchos sectores creen que por ser diferentes pueden ser personas perversas.

Y aunque señaló que no tienen los indicadores desglosados por estados, Yussel Aguirre Bonifaz destacó que los crímenes de odio se agudizan entre los activistas, porque son personas que mandan mayor mensaje a la sociedad y porque son temas que se hacen más mediáticos.

Señaló también que, entre la comunidad LGBT, existe un índice mayor de discriminación en contra de las personas trans, por su carácter de cambio de sexo: "Corren más riesgo por su estilo de vida. Por eso, el llamado social es a la mayor tolerancia y respeto al estilo de vida de todos los seres humanos".

Megalópolis
@Megalopolis_MX

#CDMX #Ciudad
Colocarán telescopios en la explanada de BJ para observar el eclipse buff.ly/2vcqemo
Only 10% of hate crimes in Mexico are resolved
Original author: Samuel Vera Cortes
August 20, 2017

During a conference presented in the capital city of Puebla, she said that the vast majority of the victims are of the male sex but, in addition, she revealed that Mexico City presents the highest incidence: ‘In the country, it is in urban areas where more cases are registered.’

“At a national level there are registered some one-thousand 370 hate crime, executed against persons from the Lesbian, Gay, Bisexual and Transsexual (LGBT) community, in the last 10 years until 2016, of which, it is calculated that only 100 percent have been resolved and the rest is categorized as passional crimes, but not hate crimes”, assured Yussel Aguirre Bonifaz, psychologist and forensic criminologist.

In addition, she emphasized that the majority of these crimes are more and more violent; however, she pointed out that it is beneficial to have official statistics, because the large majority are not reported or are overlooked as regular homicides that have nothing to do with hate crimes, even though in the end they have that imprint.

During a conference presented in the capital city of Puebla, she said that the vast majority of the victims are of the male sex but, in addition, she revealed that Mexico City presents the highest incidence: “In the country, it is in urban areas where more cases are registered.”

Aguirre Bonifaz said that, in current Mexican society, intolerance prevails, because in many sectors they believe that because they are different, they can be perverse people.

And although she pointed out that they do not have the indicators broken down by states, Yussel Aguirre Bonifaz pointed out that hate crimes are increasing among activists, because they are people who send a greater message to society and because they are brought forth in the media.

She also pointed out that, within the LGBT community, there is higher rate of discrimination against trans persons, because of their sex change character: “They run more risk because of their lifestyle. Given this, the social calling is for more tolerance and respect towards the lifestyle of all human beings”.

Source: Megapolis
Spanish to English translation of the article “Apenas 10% de crímenes de odio en México se esclarecen”
CERTIFICATE OF TRANSLATION

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Tab. 36.
More than 200 members of LGBT community killed in Mexico over three-year period

Gay men are often targeted by robbers, with gangs even specializing in this type of crime. The modus operandi is for the criminal to seduce the person either in person or via Internet and then, once inside the victim's home, to steal his belongings and kill him.

By EFE
May 18, 2017

At least 202 murders of members of the lesbian, gay, bisexual and transgender (LGBT) community occurred between 2014 and 2016 in Mexico, a rate of nearly six homicides per month, with female trans individuals bearing the brunt of the violence.

A total of 108 trans women (transvestites, transgender individuals and transsexuals), 93 gay men and a lesbian woman were killed, the non-governmental organization Letra S said in a report based on media monitoring.

It marked the first time that the number of slain trans women exceeded the total amount of murdered gay men, while the report also documented a
shift in the way these hate crimes are being perpetrated.

"We hadn't seen gang attacks before, like those that occur in the United States or Europe," Letra S Executive Director Alejandro Brito told EFE on International Day Against Homophobia, Transphobia and Biphobia, which is observed on May 17.

The activist also noted that the pattern of violence was different depending on the victim's sexual orientation or gender identity.

Gay men are often targeted by robbers, with gangs even specializing in this type of crime. The modus operandi is for the criminal to seduce the person either in person or via Internet and then, once inside the victim's home, to steal his belongings and kill him.

"It's not enough for the criminal to rob him. He kills him and does so with cruelty, with extreme brutality, as if he were punishing (the victim for) his sexual orientation," Brito said.

Trans women are also victims of savage violence, with the difference being that their bodies are often dumped in vacant lots and other public areas, he added.

Paulett Gonzalez, a transgender beauty queen from the western state of Nayarit, was found dead on July 29, 2016, in Irapuato, a town in the central state of Guanajuato, after a weeks-long search. Her charred remains were found in a vacant lot.

In June 2015, the body of a transsexual woman who had been shot and killed, bore signs of torture and was wrapped in a Mexican flag was found in the northern state of Chihuahua.

Of the 202 LGBT murder victims, at least 33 (16 percent) showed signs of torture and 15 bore evidence of sexual violence, the report said.

The state with the highest number of these murders was the Gulf coast state of Veracruz with 22, followed by the central state of Mexico and Chihuahua with 15 and 14, respectively.

In only 64 of the homicide cases, or around one-third of the total, were any suspects identified.
Tab. 37.
Con al menos 202 asesinatos de personas LGBT entre 2014 y 2016, los crímenes de odio contra el colectivo persisten en México en un promedio de seis homicidios al mes, ensañándose especialmente contra las mujeres transexuales.

En este trienio, fueron unos 67 asesinatos por año, y en total 108 mujeres trans (travestis, transgénero y transexuales), 93 hombres gays y una mujer lesbiana, de acuerdo con el reporte anual de la ONG Letra S, que elabora a partir de un monitoreo a medios de comunicación.

Esta es la primera ocasión en que las mujeres transexuales superan en número al de hombres gays asesinados, y además se identifican nuevos formas de actuar por parte de los homicidas.

"Los crímenes de odio empiezan a tomar otra motivación. Antes no veíamos este tipo de crímenes, como suceden en Estados Unidos o Europa, en los que se ataca en pandilla", explicó a Efe el director ejecutivo de Letra S, Alejandro Brito, en el Día Internacional contra la Homofobia, Lesbofobia, Bifobia y Transfobia.

De acuerdo con el activista, hay una serie de patrones de violencia según la orientación sexual o identidad de género.

Los hombres gays son a menudo víctimas de ladrones -incluso hay bandas especializadas en ello- que lo contactan y seducen en persona o por internet para, una vez en su casa, llevarse sus pertenencias y matarlos.

"El criminal no solo se conforma en robarle, lo mata y lo hace con saña, con una brutalidad extrema, como si estuviera castigando su orientación sexual", indicó.

En el caso de las mujeres transexuales, la violencia se agrava todavía más. "Sus cuerpos son encontrados en la vía pública, en terrenos baldíos" y presentan disparos de armas de fuego, señaló.

Paulett, una reina de belleza trans del estado occidental de Nayarit, fue hallada muerta el 29 de julio pasado en Irapuato (Guanajuato) después de semanas buscándola. Estaba en un descampado, calcinada.

En junio de 2015, en el norteño estado de Chihuahua, hallaron asesinada a una transexual con disparos, huellas tortura y envuelta en una bandera de México.
Según el informe de Letra S, al menos 33 víctimas (16 %) presentaban señas de tortura, y unas 15 (7 %) signos de violencia sexual.

"Encuentran las víctimas ligadas, amarradas, con quemaduras de cigarro (...). El porcentaje es bajo, pero creemos que no todos los medios lo reportan", afirmó Brito.

El estado de Veracruz, en el oriente de México, es el más mortífero para la comunidad lésbico, gay, bisexual y transexual (LGBT), con 22 asesinatos, seguido del Estado de México y Quintana Roo, con 15 casos, y Chihuahua, con 14 homicidios.

Entre las víctimas se identificó a seis activistas defensores de derechos humanos, tres migrantes trans de Centroamérica (Guatemala y Honduras) y a seis hombres gays con VIH, si bien se desconoce si estas características pudieron motivar los homicidios.

Únicamente se identificaron a 64 posibles responsables, una tercera parte del total de asesinatos.

A menudo, los asesinatos LGBT son calificados como "crímenes pasionales", y los investigadores "hacen cuadrar" las pruebas con sus "hipótesis con prejuicios" para poder cerrar el casos, indicó el activista.

Hace justo un año, el presidente Enrique Peña Nieto anunció su propuesta para reconocer el matrimonio igualitario en la Carta Magna, en línea con lo que había determinado meses antes el Supremo, que consideró inconstitucionales las leyes estatales que prohíben el matrimonio homosexual.

La propuesta, aplaudida por buena parte del colectivo, se desinfló en meses. Peña Nieto no obtuvo ni el apoyo de su propio partido, el PRI.

El mandatario "no lo defendió como debería haberlo hecho, le pedimos que pidiera un pronunciamiento a los gobernadores y poderes legislativos", lamentó Brito.

A raíz de esta propuesta, surgieron con fuerza movimientos ultraconservadores como el Frente Nacional por la Familia, que se manifestaron en varios puntos del país "en defensa del matrimonio y la familia natural".

Para Brito, ello alimentó un mensaje de odio, al acusar a la gente de la diversidad sexual de "amenazas para los hijos, hijos y la población menor de edad".

Con las 76 víctimas LGBT en 2016, Letra S tiene desde 1996 contabilizados cerca de 1.400 casos, si bien la cifra puede ser mayor, pues el recuento se hace solo a través de medios.

Muchas veces la violencia comienza en la escuela, donde el 49,75 % de los jóvenes LGBT padece acoso escolar de manera regular y el 55 % se siente inseguro, según una reciente encuesta.

**MÁS NOTICIAS**

**FÚTBOL ITALIA**

El Nápoles de Lozano, titular 7 meses después, no pasa del 1-1 en Bolonia

Hatred towards the LGBT community persists in Mexico with six murders per month
Original author: EFE
May 17, 2017

With at least 202 murders of LGBT people between 2014 and 2016, hate crimes against the collective persist in Mexico with an average of 6 homicides per month, specially being cruel against transsexual women.

In this triennium, there were some 67 murders per year, and in total 108 trans women (transvestite, transgender and transsexuals), 93 gay men and a lesbian women, according to the annual report from the NGO Letra S, that develops it from monitoring the media.

This is the first time that transsexual women surpass in numbers that of gay men murdered, and, in addition, new ways of acting from the murderer are identified.

“Hate crimes start to take another motive. Beforehand, we did not see this type of crimes, as happens in the United States or Europe, in which it is attacked in groups”, explained to Efe the executive director of Letra S, Alejandro Brito, in the International Day Against Homophobia, Lesbophobia, Biphobia and Transphobia.

According to the activist, there are a series of patterns of violence according to sexual orientation or gender identity.

Gay men are frequently victims of robbers -there are even gangs specialized in that- who contact and seduce them in person or through the internet to, once at their house, take their belongings and kill them.

“The criminal not only conforms to steal from him, he kills him and does so with malice, with extreme brutality, as if he were punishing him for his sexual orientation”, he indicated.

In the case of transsexual women, the violence worsens much more. “Their bodies are found in public highways, in empty lands” and present shots from firearms, he pointed out.

Paulette, a beauty queen in the occidental state of Nayarit, was found dead last July 29 in Irapuato (Guanajuato) after week of searching for her. She was in a vacant lot, scorched.

On June 25, in the northern state of Chihuahua, a transsexual was found murdered with bullet wounds, torture marks and wrapped around a Mexican flag.
According to the *Letra S* report, at least 33 victims (16%) showed signs of torture, and some 15 (7%) signs of sexual violence.

“Victims are found tied, tied up, with cigarette marks (…). The percentage is low, but we believe that not all of the media reports it”, affirmed Brito.

The state of Veracruz, in the orient of Mexico, is the deadliest for the lesbian, gay, bisexual and transsexual (LGBT) community, with 22 murders, followed by Mexico State and Quintana Roo, with 15 cases, and Chihuahua with 14 homicides.

Among the victims, six human rights advocate activists, three trans migrants from Central America (Guatemala and Honduras) and six gay men with HIV were identified, although it is unknown whether these characteristics could have motivated the homicides.

Only 64 possible perpetrators were identified, a third of the total number of murders.

Often, LGBT murders are classified as ‘crimes of passion,’ and investigators ‘tally’ the evidence with their ‘prejudiced hypotheses’ in order to close the cases, indicated the activist.

Just last year, president Enrique Pena Nieto announced his proposal to recognize same-sex marriage in the Magna Carta, in line with what had been determined months prior by the Supreme Court, which considered unconstitutional the state laws that prohibit homosexual marriage.

The proposal, praised by a good portion of the collective, brought disappointment within months. Pena Nieto did not even obtain the support from his own party, the PRI.

The president “did not defend it as he should have, we asked him to make a pronouncement to the governors and legislative powers”, lamented Brito.

Due to this proposal, ultraconservative movements surged with force, such as the National Front for the Family, which protested in various areas of the country “in defense of marriage and the natural family”.

For Brito, that fed a message of hate, by accusing sexually diverse people of being “threats to the daughters, sons and the minor population”.

With 76 LGBT victims in 2016, since 1996 *Letra S* has around 1,400 cases recorded, although the number could be larger, as the count is only done through media.

Many times the violence starts at school, where 49,75% of young LGBT people suffer harassment at school regularly and 55% feels unsafe, according to a recent survey.
CERTIFICATE OF TRANSLATION

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Tab. 38.
Homophobia up in Mexico after gay marriage push by president Enrique Pena Nieto: NGO

Mexico City: Homophobia has surged in Mexico since President Enrique Pena Nieto proposed to legalise same-sex marriage in May, a gay rights group said, reporting 26 hate-fueled murders this year. Alejandro Brito, head of the Citizen Commission against Homophobic Hate Crimes, said there was a 'defamation campaign' against gays.

AFP | January 27, 2017 16:46:34 IST
"This can trigger a wave of violence and an increase in attacks against homosexuals. We think that it's important for the authorities to take care of this before a tragedy takes place," he said yesterday. "Homophobia has worsened this year due to the opposition to the initiative that the president has sent to Congress," Brito said at a news conference.

"We don't want an Orlando in Mexico," he said, referring the murder of 49 people by a gunman at a gay nightclub in the Florida city in June. Pena Nieto has proposed a constitutional reform that would legalise same-sex marriage nationwide after the Supreme Court ruled last year that state bans were unconstitutional.

Currently only a handful of the country's 31 states and Mexico City allow such weddings. Brito said that at least 26 people from the LGBT community were killed so far this year, with some brutal homicides perpetrated after the president's announcement.

On June 25, two lesbians were verbally attacked by a man for their sexual orientation while they were outside a store in the northern city of Monclova. The couple left but the man hit their car with his vehicle and shot one of the women in the neck, killing her, Brito said.

The Mexico Equality Movement has documented two other murders of gays after Pena Nieto's announcement. One was run over and the other one was tortured. Brito's group reported 44 homophobia-fueled murders in 2015, down from 72 in 2014. An average of 71 anti-LGBT murders have taken place every year in the past decade.

But Brito said the figure is likely much higher as the statistics are only based on news reports.

"For each case reported in the press, there are at least two others that are not reported,"
he said. Pena Nieto's initiative has been opposed by Mexico's Roman Catholic Church and members of conservative parties. The leftist Democratic Revolution Party and LGBT rights groups filed complaints in the interior ministry and the government's anti-discrimination agency against bishops and a cardinal, accusing them of violating the constitution for their public stance against same-sex marriage.

Brito said that propaganda has spread at private schools claiming that children were at risk of facing questions about gender in class.

Updated Date: January 27, 2017 16:46:34 IST

TAGS: Mexico, Mexico City, Newstracker, Oralndo Nightclub Shooting, President Enrique Pena Nieto

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Tab. 39.
Thousands rally against gay marriage in Tijuana: ‘We have the right to defend our values’

Thousands rally against same-sex unions in Tijuana. (San Diego Union-Tribune)

By SANDRA DIBBLE
SEP. 11, 2016 | 11:10 AM
Thousands rally against gay marriage in Tijuana: 'We have the right to defend our values' - Los Angeles Times

Reporting from Tijuana — Thousands of opponents of same-sex marriage, including Tijuana’s new Roman Catholic archbishop, gathered for a rally in the city Saturday to protest Mexican President Enrique Peña Nieto’s proposed constitutional reform favoring the right of couples to marry regardless of gender identity or sexual orientation.

The morning march to City Hall was one of dozens of such protests across Mexico that took place Saturday, drawing a combined hundreds of thousands of citizens. The demonstrations come on the heels of a series of legal victories scored by proponents of same-sex marriage in states across Mexico.

Same-sex marriage is legal in Mexico City and nine of the country’s 31 states. The Mexican Supreme Court last year ruled that state bans on same-sex marriage are unconstitutional, but that decision doesn’t automatically invalidate each state’s prohibition. Amid pending legal challenges to the remaining 22 bans, same-sex couples can marry by getting a personalized injunction from a federal judge.

In Tijuana, participants in Saturday’s peaceful protest chanted “Viva la familia natural” — “long live the natural family” — as they walked in an unbroken stream that stretched for several blocks along Paseo de los Heroes through the city’s Río Zone. They were of all ages and came from all corners of the city, many of them members of Catholic parishes or evangelical Christian congregations.

“Marriage is between a man and woman for the purpose of procreation,” said Ariadna León, 39, a Catholic and mother of two from Ampliacion Guaycura in eastern Tijuana. “We are asking for the respect of the nucleus of society, which is the family.”

The rally was organized by the National Front for the Family coalition.

Ricardo Cano Castro, a spokesman in Baja California for the coalition, said it has been supported by about 1,000 groups, including schools, orphanages and antiabortion organizations. The Roman Catholic Church has openly backed the cause and encouraged its faithful to join the protests Saturday, but its leaders have insisted that the church is not an organizer.

The issue is a sensitive one, as advocates for same-sex marriage have accused the church hierarchy of violating Mexican laws that stipulate a separation of church and state.
“It’s very clear how these civil society organizations are being used to promote the positions of churches,” said Alex Ali Méndez, an attorney who has led the legal fight across Mexico on behalf of same-sex couples petitioning to marry.

While freedom of expression exists in Mexico, “the standards for that freedom of expression are different when exercised by religious groups and those involved in public worship,” Méndez said.

Andrés Cruz, president of Comunidad Cultural de Tijuana LGBTI, a group that supports same-sex marriage, said the protesters “are creating hate, and this leads to physical aggression” against people in the gay, lesbian, bisexual, transgender and intersex communities.

Quietly taking part in Saturday’s demonstration was Tijuana’s Roman Catholic archbishop, Francisco Moreno Barrón, together with his predecessor, Rafael Romo Muñoz, at his side.

The Tijuana Archdiocese was named in a complaint submitted last week at Tijuana City Hall by Méndez’s organization, Mexico Igualitario, and Comunidad Cultural de Tijuana LGBTI. The complaint to Mexico’s Interior Ministry accused the archbishop of violating Mexico’s Constitution when he publicly encouraged participation in the protests.

“We have the right to defend our values,” Moreno said in a recent homily, as he spoke of his intention to join the march in Tijuana.

Dibble writes for the San Diego Union-Tribune.

To read the article in Spanish, click here.

ALSO

Alexis Arquette, transgender activist and actress, dies at 47

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Tab. 40.
CDMX encabeza crímenes de odio: ONG

Del total de crímenes, 976 fueron contra hombres, 226 contra comunidad ´trans´, y 16 contra mujeres

CIUDAD DE MÉXICO (La Silla Rota).- De cara a la 37 marcha por el orgullo LGBTTTI (lesbianas, gays, bisexuales, travestis, transexuales, transgénero e intersexuales), el colectivo Tu Lucha Es Nuestra Lucha,
denunció que la Ciudad de México no es tan tolerante como pareciera, toda vez que es 'onde más se llevan a cabo crímenes de odio, principalmente por homofobia.

A través de un video, el colectivo expone cifras obtenidas del más reciente foro de Derechos Humanos realizado en México y destaca que en los últimos 19 años se han registrado mil 280 crímenes por homofobia en México, y ocupa el segundo lugar sólo después de Brasil.

Del total de crímenes, 976 fueron contra hombres, 226 contra comunidad ‘trans’, y 16 contra mujeres.

“Cifras que, según los activistas, sólo representan los asesinatos que se han denunciado”.

Al hacer un comparativo entre los crímenes por ciudad, la capital del país, ocupa el primer lugar en crímenes de odio, con 190; sigue el Estado de México con 119; Nuevo León, 78; Veracruz, 72; Chihuahua 69; Jalisco 66; Michoacán 65; y Yucatán con 60.

“Las cifras son vidas violentadas, y las autoridades lo ven como crimen pasional y no un crimen de odio”, dicen los jóvenes activistas, a través de un video.
Finalmente, advierten, “la desigualdad, violencia y discriminación por homofobia continúan siendo latentes en México y el mundo”.

La ciudad de México celebró la primera marcha del Orgullo LGBTTTI en 1979. Este sábado se marchará por la Diversidad en la Ciudad de México, como cada tercer sábado de junio.
MEXICO CITY (La Silla Rota),- During the 37th march for LGBTTTI (lesbian, gay, bisexual, transvestite, transsexual, transgender, and intersex) pride, the group *Tu Lucha Es Nuestra Lucha* (Your Struggle is our Struggle), denounced that Mexico City is not as tolerant as it seems, since it is where most hate crimes occur, mainly because of homophobia.

Through a video, the group exhibits figures obtained from the most recent Human Rights forum held in Mexico and highlights that in the last 19 years there have been 1,280 registered homophobic hate crimes in Mexico and ranks second only to Brazil.

Of the total number of crimes, 976 were against men, 226 against the 'trans' community, and 16 against women.

“Figures that, according to the activists, only represent the murders that have been reported”.

When making a comparison between crimes by city, the capital of the country, occupies the first place in hate crimes, with 190; followed by the State of Mexico with 119; Nuevo León, 78; Veracruz, 72; Chihuahua 69; Jalisco 66; Michoacán 65; and Yucatán with 60.

“The numbers are lives abused, and the authorities see it as a passioned crime and not as a hate crime”, say the young activists, through a video.

Finally, they warn, “inequality, violence and discrimination due to homophobia continue being prominent in Mexico and worldwide”.

Mexico City celebrated the first LGBTTTI march in 1979. This Saturday, they will walk for Diversity in Mexico City, as well as every third Saturday in June.
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Tab. 41.
The LGBT community in Latin America regularly faces violence, and Islam has nothing to do with it.

While reactions to the horrific shooting of an Orlando LGBT club have focused on attacker’s alleged links to Islamic extremists—despite pledging allegiance to both the Islamic State group and nemesis Hezbollah—news of a similar attack on a popular LGBT bar in Mexico three weeks before travelled little farther than the state’s border.

In the early morning May 22, gunmen entered La Madame, a gay club in Veracruz, and processed to fire into the crowd of approximately 180 people. In total, seven people were killed and at least 12 injured in the attack. The secretary of public security said that the killing was motivated by a territorial fight over drug sales, but LGBT activists protested, saying that they were hiding the homophobic aspect of the violence.

Violence against the LGBT community is nothing new to Mexico, nor to Latin Americans, who made up the vast majority of victims in Orlando. Numbers on victims to homophobic hate crimes are tough to collect since the sexuality of victims is often not disclosed, but activists estimate several hundred deaths for each of the continent’s bigger countries. The Organization of American States counted almost 600 in 25 member states over 15 months, recognizing underreporting.

Though Latin America has been seen as a global leader in gay rights for gay marriage legislation, protections against discrimination and general tolerant views, violence—fatal or not—persists.

A report by the AIDS alliance found that 80 percent of transgender activists in Latin America said they have been physically attacked.
Tab. 42.
Ricardo Hernández Forcada, director del Programa de VIH de la Comisión Nacional de los Derechos Humanos, asegura que en el país todavía se mantiene una cultura machista (NADYA MURILLO. EL UNIVERSAL)

**Persiste en México la homofobia: CNDH**

26/05/2016 02:14  **Ruth Rodríguez**

Discriminación promueve problema de inseguridad, señala; “No se resuelven denuncias, que van de lesiones a homicidios”
La homofobia es un fenómeno persistente en nuestro país, afirmó Ricardo Hernández Forcada, director del Programa de VIH de la Comisión Nacional de los Derechos Humanos (CNDH).

Dijo que la discriminación por homofobia hacia los grupos lésbicos, gay, bisexual, travesti y transgénero está promoviendo un nuevo problema de inseguridad en México, que se alimenta por la impunidad al no resolverse las denuncias, entre las que hay casos de discriminación, lesiones y hasta homicidios.

“No hay una consignación o una sanción hacia los responsables de estos delitos”, expuso. Recordó que tan sólo de 2009 a 2012 se tienen reportados 69 homicidios con este móvil.

Al participar en el segundo día de actividades de la Primera Semana de la Diversidad Sexual, organizada por la Dirección General de Divulgación de la Ciencia (DGDC) y el Universum, Museo de las Ciencias de la Universidad Nacional Autónoma de México (UNAM), Ricardo Hernández aseguró que todavía en el país hay una cultura “machista” e intolerante hacia el grupo LBGTTTI.

Dijo que en materia de educación se requiere incorporar el tema de la educación sexual. “Las personas no sabemos lidiar con poblaciones que son distintas a las tradicionales o convencionales porque no tenemos información al respecto, por eso es importante que desde la escuela nos enseñen las virtudes de la tolerancia y convivencia entre las diferentes personas”, subrayó Hernández Forcada.

El responsable del Programa de VIH en la CNDH recorrió que la Primera Encuesta Nacional sobre Bullying Homofóbico, realizada en mayo de 2012, revela que 81% de los encuestados sufrió bullying sólo por su apariencia física (es decir, los perpetradores no tenían seguridad de su orientación sexual) y 83% fueron agredidos por expresar su orientación sexual.

El experto comentó que el espacio en donde más se agreden a estos grupos es en el hogar, y “cuando las familias los rechazan tienen ocho veces más riesgo que aquellos que no fueron rechazados de intentar suicidarse y tres veces más riesgo de adquirir una infección de transmisión sexual o VIH”, añadió.

Sobre el ataque ocurrido el fin de semana en un bar gay en Xalapa, Veracruz, dijo que se requiere de una mayor investigación, pero por el modus operandi que utilizaron los agresores se observa la presencia del crimen organizado, aunque eso lo definirán las autoridades.
Discrimination promotes the insecurity problem, it points out; “Reports are not resolved, that go from lesions to homicides”

Homophobia is a persistent problem in our country, affirmed Ricardo Hernandez Forcada, Director of the HIV Program for the National Human Rights Commission.

He said that homophobic discrimination against lesbian, gay, bisexual, transvestite and transgender groups is provoking a new problem of insecurity in Mexico, which is exacerbated by impunity as reported cases of discrimination, including injury and even homicide go unresolved.

“There is no indictment or sanction for those responsible for these crimes”, he indicated. He recalled that only from 2009 to 2012 69 homicides with this motive were reported.

When participating in the second day of activities of the First Week of Sexual Diversity, organized by the General Directive of the Divulgation of Science (DGDC) and Universum, Museum of the Sciences from the National Autonomous University of Mexico (UNAM), Ricardo Hernandez guaranteed that in the country there is still a “machista” and intolerant culture towards the LGBTTTI group.

He said that in educational material it is required to incorporate the theme of sexual education. “People do not know how to deal with populations that are different than the traditional or conventional ones because we do not have information on the matter, that is why it is important that from the school it is taught to us the virtues of tolerance and communal living among different people”, highlighted Hernandez Forcada.

The person responsible for the HIV program at CNDH recalled that the First National Survey on Homophobic Bullying, conducted in May 2012, reveals that 81% of those surveyed suffered bullying only because of their physical appearance (in other words, the perpetrators were not sure of their sexual orientation) and 83% were assaulted for conveying their sexual orientation.

The expert commented that the space where these groups are mostly attacked is in the home, and “when families reject them they have eight times more risk that those that were not rejected of attempting suicide and three more times at risk of acquiring a sexually transmitted disease or HIV”, he added.

On the attack that occurred over the weekend in a gay bar in Xalapa, Veracruz, he said that more investigation is required, but due to the modus operandi the aggressors used the presence of organized crime is observed, although that will be established by the authorities.
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Tab. 43.
En México, 59% de los estudiantes hace comentarios homofóbicos a sus compañeros

Por Nayeli Roldán
23 de mayo, 2016

La homofobia comienza en las escuelas. En México, 67% de personas gay, bisexual y transgénero encuestadas fueron víctimas de bullying homofóbico en escuelas públicas y privadas. Los efectos de las agresiones fueron desde depresión hasta pensamientos suicidas.

De acuerdo con el estudio La violencia homofóbica y transfóbica en el ámbito escolar en Latinoamérica: hacia centros educativos inclusivos y seguros, elaborado por la UNESCO, este tipo de violencia es ignorado en la comunidad escolar y por el Estado, porque en muchos casos, “la homofobia es culturalmente aceptada”.

Una muestra es que en México, 59% de los estudiantes utilizó expresiones homofóbicas en la escuela, cifra mayor a la registrada en otros países como Guatemala (57), Perú (56%), y Chile (50%), según el estudio comparativo entre estos tres países sobre bullying y sus manifestaciones homofóbicas en las escuelas.

Guatemala es el lugar donde hubo más víctimas de expresiones homofóbicas (58%), seguido de Perú (56%), México (51%) y Chile (42%), según las encuestas realizadas a jóvenes de entre 18 y 24 años.
La Organización de las Naciones Unidas para la Educación, la Ciencia y la Cultura (UNESCO) advierte que las manifestaciones de violencia por homofobia y transfobia en los centros educativos “acechan” en contra de la dignidad y la seguridad de muchos estudiantes y “el silencio las legitima y hace que se perpetúen”.

Las agresiones impactan el rendimiento escolar, según documentó un estudio realizado por la Coalición de Escuelas Seguras del estado de Washington, pues 75% de las víctimas evitaba pasar por ciertas áreas del centro educativo y 66% tenía dificultades para prestar atención en clase. Mientras que 33% tenía peores calificaciones, 17% abandonaba la escuelas y 17% se cambiaba de escuela.

En el estudio comparativo entre México, Chile, Perú y Guatemala, 75% de los estudiantes fue testigo de actos de violencia entre pares en su paso por la escuela; entre el 40 y el 45% de los entrevistados participó en actos de violencia ya sea como parte de los agresores, mirando o apoyando y entre cuatro y cinco de cada 10 fue víctima de violencia.

El comportamiento homofóbico en las escuelas mexicanas

El análisis de la UNESCO, presentado el 18 de mayo pasado, retoma estudios realizados en América Latina sobre el tema. Uno de ellos es la Primera encuesta nacional sobre bullying homofóbico en México, donde participaron mil 273 personas LGBTI (lesbianas, gays, bisexuales, trans e intersex) de todo el país.

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El periodismo libre necesita de sus lectores.

La encuesta detectó que 67% de la comunidad LGBTI fue víctima de bullying homofóbico en las escuelas; de ellos, 7 de cada 10 hombres homosexuales y transexuales y la mitad de lesbianas fueron agredidos de alguna manera en la escuela.

El acoso en escuelas públicas y privadas es muy parecido, con 68% y 63%, respectivamente, según las respuestas de las víctimas. Mientras que la secundaria es el nivel con la mayor incidencia de bullying (56%), le sigue la primaria, con 25%; preparatoria, 13% y en la universidad, baja considerablemente, ubicándose en 3%.

De los encuestados, 92% recibió burlas e insultos; 77% señalamientos y exhibición. Seis de cada 10 fue discriminado por su orientación sexual, tres de cada 10 fue golpeado y 2 de cada 10 fue amenazado y extorsionado.

Sobre las consecuencias del bullying homofóbico, la mitad de los encuestados se deprimió, 39% no quería ir a la escuela, 3 de cada 10 perdió amigos, 25% tuvo pensamientos suicidas, 24 por ciento tuvo bajo rendimiento escolar y uno de cada 10 se cambió de escuela.

Sin embargo, las agresiones no sólo provinieron de los compañeros, sino también por parte de los maestros, como menciona uno de los jóvenes encuestados: “En la formación, el maestro hacía la fila de niñas y niños en la prepa; y a mí me puso en medio de las filas. Todo el salón se reía de mí, incluso el maestro”.

La mayoría de las autoridades en la escuela (48%) no hacía nada ante las agresiones, “les parecía normal”; 24% no se percataba de lo que ocurría, 14% le llamaba la atención a los agresores y 3% castigaba a los responsables.
Recomendaciones

Aunque estas agresiones ocurren en el salón de clase, en los pasillos y durante los recreos pareciera que sólo los estudiantes las observan, pero esa indiferencia contribuye a la ausencia de una solución, según la UNESCO.

De acuerdo al análisis entre los países, sólo Argentina, Chile, Colombia, El Salvador, Perú y Uruguay tienen políticas claras e integrales contra la discriminación por orientación sexual o identidad de género en el sistema educativo.

Para enfrentar el problema, dice el organismo, se requiere una política integral, donde exista coordinación entre las instituciones gubernamentales, no gubernamentales y la sociedad civil.
Entre las recomendaciones para aplicar en las comunidades escolares está: dimensionar el problema, capacitación al personal docente, revisión del currículum, sensibilización, intervención en casos y normatividad.

Además, según el informe sobre el derecho humano a la Educación Integral de la Sexualidad (EIS) de la ONU, plantea que la educación sexual es una “herramienta fundamental para acabar con la discriminación contra quienes viven una sexualidad diversa”.

En tanto, Orientaciones técnicas internacionales sobre educación en sexualidad, desarrolladas por UNESCO, recomiendan un plan de estudios integral con temas como: información, valores, conducta, actitudes y normas sociales, el desarrollo de habilidades interpersonales y sobre relaciones, y responsabilidad.

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In Mexico, 59% of students make homophobic comments towards their classmates
Original author: Nayeli Roldan
May 23, 2016

Homophobia begins in schools. In Mexico, 67% of gay, bisexual, and transgender people surveyed were victims of homophobic bullying in public and private schools. The effects of the aggressions ranged from depression to suicidal thoughts.

According to the study Homophobic and transphobic violence in school premises in Latin America: towards inclusive and safe educational centers, developed by UNESCO, this type of violence is ignored in the school community and by the State, as in most cases, “the homophobia is culturally accepted”.

An example is that in Mexico 59% of the students used homophobic expressions in school, higher than the number registered in other countries such as Guatemala (57), Peru (56%), and Chile (50%), according to the comparative study, between these three countries, on bullying and homophobic manifestations in schools.

Guatemala is the place where there were more victims due to homophobic expressions (58%), followed by Peru (56%), Mexico (51%) and Chile (42%), according to the surveys made to young people between the ages of 18 and 24.

The United Nations Educational, Scientific and Cultural Organization (UNESCO) warns that the violent manifestations due to homophobia and transphobia in educational centers “lurk” against the dignity and safety of many students and “the silence is legitimate and causes it to carry on”.

The aggressions impact school performance, just as the study developed by the Colaition for Safer Schools of Washington state documented, since 75% of the victims avoided passing by certain areas of the educational center and 66% had difficulties to pay attention in class. Whereas a 33% had worse grades, 17% abandoned the schools and 17% changed schools.

In the comparative study between Mexico, Chile, Peru and Guatemala, 75% of the students were witnesses to acts of violence between pairs while in school; between 40 and 45% of those interviewed participated in acts of violence either as part of the aggressors, a bystander or supporting and between four or five of every 10 were victims of violence.

The homophobic behavior in Mexican schools

The analysis by UNESCO, presented on May 18, reassumes studies conducted in Latin America about the topic. One of them is the First national survey about homophobic bullying in Mexico,
where one-thousand 273 LGBTI (lesbians, gays, bisexuals, trans and intersex) people throughout the country participated.

The survey found that 67% of the LGBTI community was a victim of homophobic bullying in schools; of them, 7 out of 10 gays and transsexuals and half of lesbians were attacked in some way in school.

The harassment in public and private schools is very similar, with 68% and 63%, respectively, according to the victims’ responses. While middle school has the highest level of incidence of bullying (56%), it is followed by elementary school, with 25%; high school, 13% and the university, considerably low, being 3%.

Of those surveyed, 92% received ridicule and insults; 77% finger-pointing and exhibition. Six out of 10 were discriminated against for their sexual orientation, three out of 10 were beaten and 2 out of 10 were threatened and extorted.

On the consequences of homophobic bullying, half of those surveyed were depressed, 39% did not want to go to school, 3 out of 10 lost friends, 25% had suicidal thoughts, 24 percent had poor school performance and one in 10 changed schools.

However, the aggressions not only came from the classmates, but also from the teachers, as one of the young people surveyed mentioned: ‘During formation, the teacher divided the high school girls and boys into separate lines; and he put me in the middle of both lines. The entire class laughed at me, even the teacher’.

The majority of the school authorities (48%) did not do anything against the aggressions, ‘it seemed normal to them;’ 24% did not realize what was happening, 14% scolded the aggressors and 3% punished those responsible.

Recommendations

Although these aggressions occur in the classroom, in the hallways, and during recess appears that students only observe, but this indifference contributes to the absence of a solution, according to UNESCO.

According to the analysis between countries, only Argentina, Chile, Colombia, El Salvador, Peru and Uruguay have clear and integral policies against discrimination because of sexual orientation and gender identity in the educational system.

To face the problem, says the organization, an integral policy is required, where there is coordination between the governmental, non-governmental and civil society institutions.

Among the recommendation to apply in school communities, there is: evaluating the problem, training educational personnel, revising the curriculum, awareness, intervention in the cases and normalizing.
Furthermore, according to the report regarding human rights towards Integral Education of Sexuality (EIS) of UN, it poses that sexual education is a “fundamental tool to end with the discrimination against those that live a sexuality diverse”.

Whereas, international technical Orientations about education in sexuality, developed by UNESCO, recommends an integral study plan with topics such as: information, values, conduct, attitudes and social norms, the development of interpersonal abilities and about relationships, and responsibility.

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Tab. 44.
Es Jalisco un estado homófobo

Pese a que en el papel ha avanzado, Jalisco es uno de los cinco estados a nivel nacional con mayor número de manifestaciones de discriminación, exclusión, estigmatización y crímenes de odio por homofobia.

A nivel nacional, la entidad es una de las ocho que cuenta con una Ley de Libre Convivencia y desde hace pocos días reconoce jurídicamente el matrimonio a los matrimonios entre personas del mismo sexo por órdenes de la Suprema Corte de Justicia de la Nación; no obstante, también ocupa el quinto lugar en homicidios por odio y homofobia y es el tercer estado con más denuncias por discriminación por preferencias sexuales, según cifras de la Comisión Nacional para Prevenir la Discriminación (Conapred).

Frente a este panorama que no es muy distinto a lo que sucede en todo el país, por del Día Nacional de la Lucha contra la Homofobia, la Comisión Nacional de los Derechos Humanos (CNDH) llamó a las autoridades a atender la “la intolerancia y discriminación por homofobia para no poner en riesgo el sistema de libertades, integridad y protección de los derechos humanos de las personas que enfrentan estigma y discriminación por homofobia, lesbofobia, bifobia y transfobia”.

“Etiquetar o estigmatizar a un grupo poblacional por su orientación sexual atenta contra la dignidad humana y provoca actos de discriminación que aíslan a los individuos y les obstaculizan el desarrollo normal de su personalidad. Ante este panorama, se requiere de políticas públicas a fondo que permitan erradicar la intolerancia y combatir factores de violencia, sobre todo en los ámbitos de educación, salud, justicia y empleo”, señala el comunicado.
Asimismo, pidió que se impulsen de manera integral los derechos de las personas pertenecientes a las comunidades lésbico, gay, bisexuales, travestis, transexuales, transgénero e intersexuales (LGBTTTI).

La CNDH hace énfasis en que para posibilitar que este grupo poblacional acceda a mejores condiciones de seguridad y protección a su dignidad y garantizar sus derechos, se deben detectar y eliminar prácticas institucionales que generan homofobia y sancionar a los servidores públicos que cometan agravios en su contra.

A este llamado se sumó la Conapred, organismo que, aunque celebró los avances jurídicos, reprochó que “existen aún importantes muestras de homofobia. La violencia es una de las más severas”.

Además, subrayó que la discriminación prevalece en una gran variedad de ámbitos, lo cual, agregó, se refleja en los resultados de la Encuesta Nacional sobre Discriminación en México 2010, que advierte que cuatro de cada 10 personas no estarían dispuestas a que en sus casas vivieran personas homosexuales y que el principal problema para este sector poblacional en México es la discriminación (52 por ciento), seguida de la falta de aceptación (26.2 por ciento) y de las críticas y burlas (6.2 por ciento).

Un diagnóstico realizado por investigadores de la Universidad Autónoma Metropolitana, unidad Xochimilco, e Inspira Cambio resalta que 42 por ciento de las mujeres trans y 39 por ciento de las mujeres lesbianas expresaron haber sido discriminadas en los espacios públicos. Mientras que siete de cada 10 personas LGBTTTI se han sentido discriminadas en espacios educativos y la mitad manifiesta haber vivido, por lo menos una vez, situaciones de acoso, hostigamiento o discriminación en el trabajo.

En el ámbito local las autoridades se limitaron a publicar mensajes a través de sus redes sociales para manifestar su rechazo a la homofobia, como el gobernador Aristóteles Sandoval Díaz y el alcalde de Guadalajara, Enrique Alfaro Ramírez. La Comisión Estatal de Derechos Humanos subió una imagen referente al día en sus cuentas de Facebook y Twitter.

**Llevan ataúd**

Para denunciar que han ocurrido 66 asesinatos por homofobia en la entidad de 2005 a la fecha, los integrantes de la agrupación Unión Diversa de Jalisco se presentaron en el Congreso del Estado con la bandera de la diversidad sexual sobre un ataúd simulado para representar a las personas que han fallecido por esa causa.

“Tan sigue arraigado que todavía no hay políticas públicas adecuadas, los únicos que tienen un reglamento contra la discriminación es el municipio de Guadalajara, pero sin embargo en el Código Penal está sancionada la discriminación, es un atentado contra la dignidad de las personas, pero no hay un protocolo que le diga al Ministerio Público qué es la discriminación”, comentó Carlos Becerra, secretario de Unión Diversa de Jalisco.

El activista aseveró que aunque la comunidad de la diversidad sexual ha ganado terreno en el reconocimiento jurídico de sus derechos, el avance de la aceptación social no ha ido a la par. El Estado, dijo, está obligado a instaurar una cultura de la paz hacia todas las poblaciones.

“Cuando es encontrada una mujer trans asesinada en el Semefo sería transfobia y no sería un crimen pasional, no sería un homicidio, una mujer trans es una mujer. Muchas veces encuentran el cuerpo de mujer, pero biológicamente es un hombre y no hay estadísticas en el Instituto (jalisciense) de Ciencias Forenses que nos diga que fue una mujer trans o un hombre trans”, aseveró.

El ataúd, señalaron los manifestantes, representó a todos los crímenes por LGBTfobia, lesbofobia, homofobia, transfobia y bifobia.

Los manifestantes pidieron que en Jalisco se respete el estado de derecho, en concreto el reconocimiento y registro de los hijos de las parejas del mismo sexo, el cual, dijo, está incluido en el engroses de resolución de la Suprema Corte de Justicia de la Nación.

Carlos Becerra expresó que el gobierno del estado está obligado a modificar el reglamento del Registro Civil para permitir el este proceso para los hijos de las parejas del mismo sexo, el cual, dijo, está incluido en el engroses de resolución de la Suprema Corte de Justicia de la Nación.

Al iniciar la sesión de pleno del Congreso del Estado, el presidente de la Mesa Directiva, Alejandro Hermosillo González, hizo referencia a la conmemoración del día: “Todos tenemos los mismos derechos sin importar nuestra preferencia sexual”.

**Marchan en silencio contra crímenes de odio**

José Antonio fue torturado y luego estrangulado. Alejandro fue amarrado a un palo, luego le prendieron fuego a sus genitales y le dieron un tiro en la cabeza. Carlos Gabriel fue abusado sexualmente y luego golpeado en la cabeza con una piedra hasta matarlo. Todos fueron asesinados por ser homosexuales, bisexuales o transexuales. “Por coger con hombres”.

https://www.ntrguadalajara.com/post.php?id_notas=39399
Al igual que José Antonio, Alejandro y Carlos Gabriel, más de 60 integrantes de la comunidad lésbico, gay, bisexual, transexual, transgénero, travestis e intersexuales fueron asesinados por homofobia en la entidad.

"Jalisco ocupa el quinto lugar en número de crímenes de odio con 66 casos, a nivel nacional tenemos mil 219 casos de crímenes de odio que se caracterizan por la forma violenta con la que se cometen, es decir, tortura y golpes hasta la muerte", señaló Eduardo Rodríguez, de la Red por la Diversidad Sexual.

Minutos antes de recitar los nombres de cada uno de los integrantes de la comunidad de la diversidad sexual víctimas de homofobia, Eduardo y un grupo de 60 personas caminaron desde el Instituto Cultural Cabañas hasta Plaza Liberación.

En silencio, caminaron mujeres tomadas de la mano de otra mujer, hombres tomados de la mano de otro hombre, todos con veladoras de colores, banderas arcoíris y pancartas en las que se leía una sola exigencia: basta de crímenes de odio contra lesbianas, gays, bisexuales y trans.

Luego de 45 minutos de caminata sin gritar una sola consigna y detenerse por un minuto afuera del Congreso del Estado, los hombres y mujeres que aman a personas de su mismo sexo se instalaron en Plaza Liberación para rendir homenaje a los 66 jaliscienses asesinados en crímenes de odio.

"México se ahoga en el odio, Jalisco se ahoga en el odio y venimos hoy a este Congreso a recordarles a estos diputados que no están haciendo lo suficiente para garantizar la integridad de lesbianas, gays, bisexuales trans e intersexuales y nuestro derecho a vivir en paz. Honramos la memoria de quienes ya no están y también nos honramos a nosotros mismos, a quienes hemos sobrevivido", gritó Eduardo.

Entre los pendientes enlistó, además del matrimonio igualitario, garantizar la adopción para no dejar en indefensión jurídica a los hijos de parejas homoparentales, aprobar la ley de identidad de género que permita a las personas trans reasignar su identidad y avanzar en la prohibición de los discursos de odio y aquellos que hacen apología del odio, principalmente en el ámbito religioso.

Cifra:

66 asesinatos por homofobia se han cometido en la entidad de 2005 a la fecha, según activistas
Although legal advances have been made, Jalisco is one of the five states nationwide with the largest number of manifestations of discrimination, exclusion, stigmatization and homophobic hate crimes.

At the national level, the state is one of eight that has a Law of Free Coexistence and recently legally recognized marriages between people of the same sex as ordered by the Nation’s Supreme Court of Justice; however, it also ranks fifth in homicides caused by hatred and homophobia and is the third state with the most complaints because of sexual orientation discrimination, according to figures from the National Commission to Prevent Discrimination (Conapred).

Given this panorama that is not as different as what occurs throughout all of the country, for the National Day of the Fight against Homophobia, the National Commission of Human Rights (CDNH) called for the authorities to deal with the “intolerance and discrimination due to homophobia to not put at risk the system of freedoms, integrity and protection of the human rights of the people that face stigma and discrimination due to homophobia, lesbophobia, biphobia and transphobia”.

“Labeling or stigmatizing one group of the population due to their sexual orientation threatens against human dignity and provokes acts of discrimination that isolate individuals and obstructs the normal development of their personality. Afore this panorama, in depth public policies are required that would allow to eradicate intolerance and combat violence factor, especially in the educational, health, justice and employment field”, the announcement pointed out.

Likewise, it asked that the rights of people belonging to the lesbian, gay, bisexual, transvestite, transgender and intersexual (LGBTTI) communities be showcased in an integral manner.

The CNDH emphasizes that to make it possible that this population group has access to better security and protection conditions for their dignity and to guarantee their rights, institutional practices that generate homophobia and that sanction public servers that commit grievances against them have to be detected and eliminated.

Conapred was added to this call, an organism that, although it celebrated the legal advances, reproached that ‘there are still important demonstrations of homophobia. Violence is one of the most severe”.

In addition, he stressed that discrimination prevails in a wide variety of areas, which, he added, is reflected in the results of the National Survey on Discrimination in Mexico 2010, which warns
that four out of 10 people would not be willing to have gay people live in their homes and that the main problem for this population in Mexico is discrimination (52 percent), followed by lack of acceptance (26.2 percent) and criticism and ridicule (6.2 percent).

An analysis conducted by researchers from the Metropolitan Autonomous University, Xochimilco unit, and Inspire Change highlights that 42 percent of trans women and 39 percent of lesbian women expressed having been discriminated against in public spaces. While seven out of 10 LGBTTTTI people have felt discriminated against in educational spaces and half of them say they have experienced, at least once, situations of bullying, harassment or discrimination at work.

In the local sphere, authorities limited themselves in publishing messages through social media to manifest their repudiation to homophobia, such as governor Aristoteles Sandoval Diaz and the mayor of Guadalajara, Enrique Alfaro Ramirez. The State Commission of Human Rights posted an image regarding the day on their Facebook and Twitter accounts.

**They carry a coffin**

To condemn that there have been 66 assassinations caused by homophobia in the state from 2005 to date, the members of the group Diverse Union of Jalisco appeared before the State Congress with a sexual diversity flag on a simulated coffin to represent people who have died for that reason.

“It is still solidified that there are no adequate public policies yet, the only ones that have regulations against discrimination is the municipality of Guadalajara, but, however, in the Penal Code discrimination is sanctioned, is an attack against the dignity of the people, but there is no protocol that tells the Public Ministry what is discrimination”, commented Carlos Becerra, secretary of the Diverse Union of Jalisco.

The activist said that although the community of sexual diversity has gained ground in the legal recognition of their rights, the advance in social acceptance has not gone hand in hand. The state, he said, is obliged to create a culture of peace towards all populations.

“When a trans woman is found murdered in the Semefo (Jalisco Institute of Forensic Science) it would be transphobia and it would not be a passionale crime, it would not be a homicide, a trans woman is a woman. Many times a body of a woman is found, but biologically it is a man and there are no statistics in the (Jalisco) Institute of Forensic Science that tells us that it was a trans woman or a trans man”, he stated.

The coffin, the protesters pointed out, represented all the LGBTphobia, lesbophobia, homophobia, transphobia and biphobia crimes.

The protesters requested that, in Jalisco, the state of rights is respected, specifically the recognition and registry of the children of same-sex marriages.
Carlos Becerra expressed that the government of the state is required to modify the regulations of the Civil Registry to allow this process for the children of same-sex couples, which, he said, is included in the opinion of the engrossment of the resolution from the Supreme Court of Justice of the Nation.

When the plenary session of the Congress of the State, the president of the Directive Board, Alejandro Hermosillo Gonzalez, made reference to the commemoration of the day: “Everyone has the same rights without taking into account our sexual preference”.

They march in silence against hate crimes

José Antonio was tortured and then strangled. Alejandro was tied to a pole, then his genitals were set on fire and he was shot in the head. Carlos Gabriel was sexually abused and then beaten to death, hitting his head with a rock. All were murdered for being gay, bisexual or transgender. “For having sex with men”.

Like José Antonio, Alejandro and Carlos Gabriel, more than 60 members of the lesbian, gay, bisexual, transsexual, transgender, transvestite and intersex community have been murdered, as a result of homophobia, in the state.

“Jalisco ranks fifth in number of hate crimes with 66 cases, at the national level we have one thousand 219 cases of hate crimes that are characterized by the violent way in which they were committed, that is, tortured and beaten to death”, pointed out Eduardo Rodríguez, of the Network for Sexual Diversity.

Minutes before reciting the names of every one of the members of the sexual diversity community victims of homophobia, Eduardo and a group of 60 people walked from the Cultural Institute Cabanas towards Liberation Plaza.

In silence, women walked hand in hand with another woman, men holding hands with another man, everyone with colored candles, rainbow flags and posters in which only one thing was requested: stop with hate crime against lesbians, gays, bisexuals and trans people.

After 45 minutes marching without yelling a single slogan and stopping for a minute outside the State’s Congress, the men and women that love people of their same sex established themselves at Liberation Plaza to pay homage to the 66 Jalisco people murdered in hate crimes.

“Mexico drowns in hate, Jalisco drowns in hate and we come today to this Congress to remind these deputies that they are not doing enough to guarantee the integrity of lesbian, gay, bisexual, trans and intersexuals and our right to live in peace. Let us honor the memory of those that are not here and also we honor ourselves, who have survived”, exclaimed Eduardo.

Among pending matters he enumerated, apart from same-sex marriage, guaranteeing adoption to not without legal defense the children of same-sex parental couples, approving the law on gender identity that permits trans people to reassign their identity and advancing the prohibition of hate speeches and those that defend hate, principally in the religious sector.
CERTIFICATE OF TRANSLATION

I, ___ Natalie Nicole Trinidad Lira ___, am competent to translate from __Spanish____ into English, and certify that the translation of ____Article: “Es Jalisco un estado homofóbo” (Name of Document)____ is true and accurate to the best of my abilities.

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Tab. 45.
Mexico is No. 2 for homophobic crimes

Over 1,000 homicides have been recorded over 19 years

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While there are outward indications that homosexuals are winning broader acceptance in Mexico, as in other Latin American countries, some statistics show a different picture.

Figures released on the eve of the International Day Against Homophobia, marked yesterday, rank Mexico as the second worst country worldwide for homophobic crimes, after Brazil.

In the last 19 years there have been 1,218 homicides with homophobic undertones in Mexico, although estimations are that for every reported crime there are three or four more that go unreported, says the Citizens’ Commission Against Homophobic Hate Crimes in its latest report.

According to the document, the largest group of victims are men, with 976 murders, followed by those identified as transgender with 226 reported cases. Of women there were only 16 cases but it is believed that the murder of lesbian women is usually under-reported, as most cases are labeled broadly as femicides.

The report also shows that the number of homophobic murders has been increasing since 2005, which corresponds with greater public visibility gained since then by homosexuals and transgender people.

But as with much crime in Mexico, impunity and other issues are a factor.
These crimes are at risk of being made invisible by the “violence, impunity, and corruption” with which they are investigated, the report continues.

An example is the case of Óscar Manuel Ramírez Siordia, 27, who has spent almost five years in prison for the murder of his partner.

On July 7, 2010, Ramírez Siordia found the dead body of his boyfriend, Jacobo, on their bedroom floor. He immediately called the police.

A few days later, Ramírez Siordia was formally arrested for first-degree murder. Even after a 19-year-old man confessed of murdering Jacobo, Ramírez Siordia was sentenced to 27 years and six months in prison.

Jacobo’s death may not fall into the category of homophobic crimes, but the whole case has a discriminatory bias, as the crime was immediately labeled as a “crime of passion” due to the sexual orientation of those involved and, according to the accused’s defense, the judges issued the sentence with homophobic prejudices.

A group of lawyers is currently waiting for the courts to review an injunction request, considering that Ramírez Siordia’s right to a fair trial, to the presumption of innocence and to non-discrimination on grounds of his sexual orientation were violated.

Source: Sin Embargo (sp), NotieSe (sp)

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