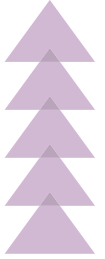


Joint Submission
For Mexico's Third UPR
By Mexican Civil Society
Organizations

2018



Submission 2018 | Mexican Civil Society



Joint Submission

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JOINT SUBMISSION FOR MEXICO'S THIRD UPR (2018) BY MEXICAN CIVIL SOCIETY ORGANIZATIONS (registered as "Colectivo EPUMX"*)
INFORME CONJUNTO PARA EL TERCER EPU DE MÉXICO (2018) POR ORGANIZACIONES DE LA SOCIEDAD CIVIL MEXICANA (registrada como "Colectivo EPUMX"*)

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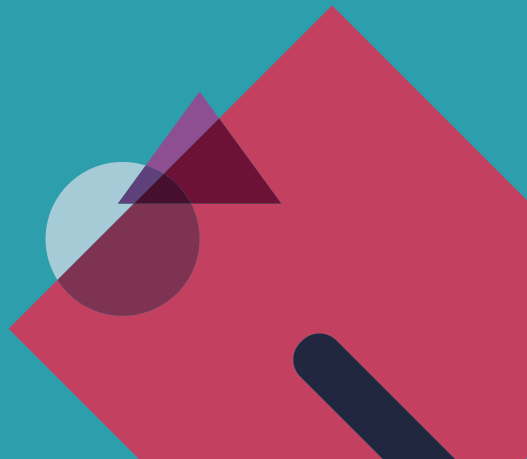
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Introduction

1. Mexico faces a triple crisis of violence, corruption, and impunity. Hardest hit are broad sectors of society affected by economic inequality (approximately half the population lives in poverty¹) or by discrimination due to one or more aspects of their identities or membership in historically marginalized groups. In this report, after a brief update on Mexico's legislative framework, we analyze this triple crisis, emphasizing the need to break the cycle of impunity as the basic prerequisite for the enjoyment of human rights. We also offer observations on Mexico's non-compliance with prior UPR recommendations from the 2009 and 2013 cycles. We close with proposals for the Human Rights Council to promote the effective implementation of this cycle's recommendations.



Section I:

Update on legislative framework

2. Since Mexico's second UPR, there have been notable advances in legislative protection of certain human rights, but insufficient or deficient application of several of these laws and reforms has thus far prevented them from having a truly transformative impact for victims and for society.

3. During this same period, Mexico has enacted alarming legislation seeking to legalize various human rights violations, posing a serious and immediate threat to the physical integrity and life of significant numbers of the country's inhabitants.

Legislative advances

4. The year 2017 marked the adoption of the General Law to Prevent, Investigate, and Punish Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment² and the General Law on Enforced Disappearances, Disappearances Committed by Private Parties, and the National Search System,³ following proposals and active participation by victims and coalitions of families and civil society. Thus, we now call for the effective application of these laws to produce concrete and significant real-world results. Mexico also partially reformed article 57 of its Code of Military Justice in 2014, but this reform did not bring the Code into compliance with the four relevant judgments handed down by the Inter-American Court of Human Rights against Mexico.⁴

5. In 2014, Mexico enacted the Special Program on Migration;⁵ nonetheless, migrants and individuals falling under the scope of international protection continue to suffer systematic and systemic rights violations. State policy centers on control and administration of migratory flows, with a vision of national security rather than human rights. The program that has truly shaped migration policy is the Integral Program to Attend to the Southern Border (PFS),⁶ which implements border control and



has militarized the southeast of the country, essentially externalizing the United States of America's southern border to the border between Mexico and Guatemala. Detention is the rule applied to undocumented migrants, who cannot contest this measure, or who face indefinite detention if they file judicial or administrative remedies seeking to avoid deportation.⁷ No impartial and independent authorities guarantee this population's access to justice.⁸ The foregoing constitutes arbitrary detention.

6. The year 2014 also saw the approval of the General Law on the Rights of Children and Adolescents (LGDNNA),⁹ which creates the National System for the Integral Protection of Children and Adolescents (SIPINNA) and grants new powers to the Federal Prosecutor for the Protection of Children and Adolescents. However, with regards to migrant children, the government continues to make decisions based on migratory status rather than the best interests of the child.¹⁰ In 2016, more than 40,000 migrant children and adolescents were detained.¹¹ In addition, federal and state law must be adjusted to comply with the General Law.¹²

7. On June 16, 2016, Mexico published the National Law on Execution of Criminal Judgments,¹³ representing an advance for the penitentiary system. This is crucial in light of the great importance of ensuring that the execution of criminal judgments is guided by the principal of reinsertion in society, established in article 18 of Mexico's Constitution.

8. History shows that the adoption of laws and reforms is insufficient to guarantee their application¹⁴ and will not transform reality unless accompanied by concrete steps to end institutional practices and structural obstacles at the heart of Mexico's human rights crisis, to which we turn in the rest of this report.

Negative legislation that threatens the life, physical integrity, and other rights of the population

9. With great concern, we share information on the Internal Security Law approved in December 2017,¹⁵ which seeks to normalize and entrench the militarization of public security tasks – contradicting the govern-



ment's repeated claims over the past decade that militarization was only a temporary measure. The law subordinates civilian authorities to the military chain of command,¹⁶ violating the Constitution and taking the country down an authoritarian path that diverges ever farther from a democratic form of government. The law deems confidential all information related to its application, citing reasons of national security,¹⁷ establishes extremely vague definitions for internal security threats,¹⁸ assigns intelligence-gathering tasks to the armed forces,¹⁹ and allows for unlimited extensions of the timeframe of military participation in public security tasks,²⁰ all without creating minimally adequate civilian controls over the armed forces. The Law is currently the subject of multiple constitutionality challenges before the Supreme Court.

10. We also draw attention to the serious human rights consequences of the secondary laws that implement Mexico's 2013 energy sector reform, given that this legislation establishes that the extraction of energy resources takes legal precedence over any other use of the land²¹ – including occupation and use by indigenous peoples – without providing for individuals' or communities' right to oppose energy projects on their land.²² These reforms have come into force in a national context already characterized by large-scale human rights violations such as dispossession of land, repression against communities, environmental destruction, and forced displacement associated with the imposition of so-called megaprojects to extract natural resources or carry out other "development" activities. By favoring businesses and resource extraction over the population's rights, these reforms will foreseeably lead to increased efforts by affected communities to defend their rights, and therefore to increased repression and violence against them in order to clear the way for development projects on their land, in line with the existing pattern. The defense of individuals and communities affected by business activities also now faces yet another obstacle: the jurisprudence adopted in 2015 by the Supreme Court that establishes that businesses themselves have human rights.²³



Section II:

Impunity

11. Mexico is experiencing critical levels of violence. From December 2012 until the drafting of this report (that is, during the current federal administration), more than 100,000 intentional homicides have been reported to authorities, including 25,339 in 2017, the highest number in recorded history.²⁴ From 2009 to January 2017, an estimated 310,527 people were forcibly displaced by violence.²⁵

12. In this context, the former Special Rapporteur on Extrajudicial Executions documented a situation of “systematic and endemic impunity” in his 2014 country report on Mexico.²⁶ As the former Rapporteur on Torture observed that same year, “There are structural flaws at both federal and state level that accentuate this impunity.”²⁷

13. Near-total impunity is the cross-cutting factor that perpetuates violence and rights violations in Mexico. It is especially aggravated in the case of economically or socially marginalized groups, whose reports of multiple forms of violence are met with a refusal to investigate (especially when government agents, organized crime, businesses or other powerful actors are implicated), stereotyping and/or a lack of investigatory practices that take into account the situation of the victims (affecting groups as diverse as women, children, indigenous peoples, the LGBTTTI community, people with disabilities, human rights defenders, and journalists), or bureaucratic obstacles (preventing adequate responses to migrants and their families, for instance). Sometimes two or more of these factors combine.

14. The foregoing fits within a broader pattern in which precisely those groups exposed to higher levels of vulnerability tend to receive lower levels of rights protection. Examples of this phenomenon are as diverse as the situation of fieldworkers – who face below-minimum wages, unjustified dismissals, and withholding of wages²⁸ due to institutional fail-



ure to protect their rights²⁹ - to the proliferation of hate crimes based on sexual orientation or gender identity (especially against transgender women); according to Transgender Europe, Mexico is ranked #2 in reports of murders of trans people, with 56 cases from October 2016 to September 2017.³⁰

Overview of impunity in Mexico

15. According to government statistics, in 2016 only 9.7% of crimes were reported, with 65.2% of reports leading to the opening of an investigation.³¹ The main reasons for not reporting crimes were the belief that it would be a waste of time and distrust in authorities.³² Criminal investigations led to the recovery of goods or the presentation of an accused party before judicial authorities in less than 1.2% of total crimes.³³

16. The percentage of cases in which the guilty party is in fact punished is lower still, due in part to the countless cases of arbitrary detentions and unfounded trials against innocent people.³⁴ As found by Amnesty International through case research and interviews with authorities, “police across Mexico routinely detain people arbitrarily in order to extort them. They also often plant evidence in an effort to prove they are doing something to tackle crime...”³⁵ Multiple organizations have documented in particular the arbitrary detention of indigenous persons, who often do not understand the trials against them due to the government’s failure to guarantee their rights to an adequate defense and to interpreters;³⁶ on the southern border, migrant women are falsely accused of human trafficking in baseless trials.³⁷

17. This panorama helps explain why Mexico ranks #92 of 113 countries overall in the World Justice Project’s *Rule of Law Index 2017-2018*, and is ranked #105 in criminal justice.³⁸

18. Mexico’s context of atrocities and impunity has led coalitions of Mexican and international civil society organizations to request that the Office of the Prosecutor of the International Criminal Court open a preliminary examination into crimes against humanity.³⁹



Impunity for human rights violations

19. In September 2015, the government informed the Inter-American Commission on Human Rights (IACHR) of just 15 federal convictions for torture since 2006 (several of which appeared to refer to the same trial).⁴⁰ The federal Specialized Torture Investigation Unit, created in October 2015, reported in February 2018 that it had opened 8335 investigations and had presented charges in only 17.⁴¹ In 2017, it ordered expert examinations designed to detect possible medical and psychological signs of torture in just 17 cases.⁴² In July 2017, the Unit reported 1847 investigations opened against members of the army, of which it had presented charges in four.⁴³ We know of no conviction for sexual torture of women, a widely documented, systematic component of the torture of female detainees.⁴⁴

20. As regards enforced disappearances, from 2007-2017, criminal complaints made before the authorities referenced the disappearance of 34,674 people (most during or after 2013), including 8982 women, 364 foreign nationals, and 7908 victims under the age of 20.⁴⁵ From 2006 to August 2017, the Federal Prosecutor's Office (PGR) presented charges in just 3.18% of its investigations for disappearances⁴⁶ and the government reported just 10 federal convictions from June 2001 to January 2018.⁴⁷ As the former UN Rapporteur on Torture highlighted, "no soldier ha[d] been convicted of enforced disappearance as of August 2015 despite the high number of cases of disappearances presumably committed by members of the armed forces."⁴⁸

21. At the state level, impunity is also the rule. In Coahuila, some investigations have been open for 10 years and have been reviewed by international consultants, without these experts' recommendations having been implemented; criminal complaints of disappearances are often classified as other crimes and even some cases that go to trial end without convictions due to deficiencies in the investigations.⁴⁹ In Jalisco, the last several years have seen an increase in reports of disappearances, in which deficient investigations have been the norm; no convictions are reported at the state level.⁵⁰ In Baja California, local organizations



indicate that official statistics seriously under-report levels of disappearance,⁵¹ an observation repeated in other states.⁵² In Mexico State, cases of disappeared and missing girls and women increased by 168% in five municipalities from 2015-2016.⁵³

22. Regarding the search for the disappeared, despite the adoption of a “Uniform Protocol for the Search for Disappeared Persons and the Investigation of the Crime of Enforced Disappearance” in 2015,⁵⁴ which establishes policies and procedures applicable at the national level, the authorities frequently fail to comply with the Protocol. Deeply rooted practices such as the criminalization and stigmatization of victims and their families continue, as do refusals to open investigations in the first 24 hours.

23. According to official data, from 2014 to 2016, of 5824 crimes against migrants in the states of Chiapas, Oaxaca, Tabasco, Sonora, Coahuila, and at the federal level, there is evidence of only 49 judicial sentences (0.84%).⁵⁵ To receive attention from authorities charged with carrying out investigations, in practice migrants must be accompanied by personnel from migrant shelters or an NGO; detained migrants face great difficulties in obtaining this type of representation, since NGOs have limited possibilities of entering detention facilities for this purpose. In migrant detention stations, it is common to find women who have been victims of sexual violence, but if they report this, authorities often pay more attention to their migratory status than to their status as victims.

24. In 2014, official data showed that four out of every 10 children from ages 12 to 17 were victims of crime or mistreatment.⁵⁶ Government data from 2015 regarding investigations of certain crimes that by definition affect almost exclusively children⁵⁷ show that only approximately 1.4% lead to a conviction.⁵⁸

25. Impunity likewise characterizes violations of economic, social, cultural, and environmental rights, including the actions of state and private businesses. As a coalition of 84 NGOs and networks informed the CESCER Committee in 2017, impunity “is aggravated[] when the litigation is between a victim or community and a business or the government that protects the business’ interests, since there is a power imbalance

between the parties”; even when affected communities (often indigenous) obtain favorable judicial rulings, “the authorities of the executive branch, local or federal, have systematically failed to comply or have hampered the implementation of the judgments.”⁵⁹

26. From 2012-2017, at least 41 journalists⁶⁰ and 110 human rights defenders⁶¹ were murdered in a wider context of 2199 attacks against the press⁶² and 1973 violations against human rights defenders from 2013 to May 2017.⁶³ From July 2010 to December 2017, the Special Prosecutor for Crimes against Freedom of Expression (FEADLE) of the PGR reported more than 1000 investigations of crimes against journalists and the media, of which it presented charges in 127,⁶⁴ achieving convictions in just three.⁶⁵ Mexico lacks a holistic protection policy, as seen in the reactionary character of the federal Mechanism for the Protection of Human Rights Defenders and Journalists and in the absence of effective preventive and investigatory responses.

27. The lack of institutional protection against the control and disposition of large tracts of land for logging, mining, single-crop farming, hydroelectric power projects, and others (for example, in Chiapas state alone there are at least 40 mines, dams, highways, tourist attractions, oil projects, and wetland development projects implemented without respecting indigenous peoples’ rights⁶⁶) has led affected communities to defend their own rights, placing themselves at risk.⁶⁷ From July 2016 to December 2017, there were 88 cases of attacks against environmental rights defenders, including 17 cases of murder in which 29 people were killed.⁶⁸

Structural causes of impunity in the criminal justice system

28. The experience of the undersigned organizations, who have represented and documented hundreds of cases, shows that Mexico’s criminal justice system suffers from corruption and collusion with criminal groups, is excessively bureaucratic and revictimizing, and lacks independence, professionalism, and adequate accountability mechanisms.⁶⁹

29. The new, adversarial criminal justice system (NSJP) represents an unprecedented advance in the design and normative framework of criminal



procedure, but due to insufficient will and capacity within prosecutors' offices to adjust their practices to the requirements of this oral trial system, the last few years have seen public calls by various authorities for counter-reforms to the NSJP (which only came into force at the national level in 2016). These calls for rolling back human rights and due process guarantees in the new system mean that we face the challenge of avoiding setbacks at the same time as we seek to achieve the full and correct application of this new model that lays the foundations for better access to justice for the population.

30. The lack of diligent investigation of human rights violations, in addition to reflecting political interests in any given case, has several identifiable components, including: i) an absence of relevant investigation tools and strategies (including the absence of lines of investigation or a theory of the case); ii) lack of coordination between authorities, accentuated by overly bureaucratic procedures; iii) the actions or omissions of state agents are not properly investigated (whether as criminal or administrative matters); iv) investigators do not drive their own investigations, but rather impose on victims the burden of presenting evidence, showing a lack of basic due diligence; and v) despite Mexico's advanced laws on the subject, in practice victims are not recognized as parties in the investigation and their rights are not respected. In general, investigators accumulate documents in casefiles, but they do not analyze the context of the crimes, making it impossible to understand the facts, identify the entire chain of perpetrators, and dismantle criminal structures.

31. From 2015-2016, the Interdisciplinary Group of Independent Experts (GIEI) – five internationally recognized experts in the criminal investigation of atrocity crimes, criminal networks, work with victims, and other subjects, named by the IACHR to provide technical assistance in the investigation of the Ayotzinapa case – identified at least 20 structural mechanisms that perpetuate impunity in the Mexican justice system.⁷⁰ The GIEI emphasized, among other problems, over-reliance on testimonies and confessions, which can generate impunity at the same time as it creates incentives for torture⁷¹ (which is in turn covered up through the routine manipulation of detainee examinations, falsely claiming that authorities are following the Istanbul Protocol⁷²); lack of independence

of forensic experts from prosecutors' offices;⁷³ and the lack of investigation of command structures and collusion.⁷⁴

32. The UN High Commissioner, after observing the serious impunity crisis during his visit to Mexico, recommended in 2016 that the government create an anti-impunity Advisory Council, composed of renowned experts who would present an evaluation of the situation and recommend an action plan, as well as monitor the implementation of the plan and publish periodic reports.⁷⁵ Mexico responded that it possesses "the capacity to implement the substantive part of this recommendation"⁷⁶ and did not create the Council. We recall that breaking the cycle of impunity requires recognizing the seriousness of the situation and taking concrete actions to combat its structural causes; in this context, the country does require the implementation of an anti-impunity mechanism in which renowned international experts in impunity, criminal investigation, macrocriminality (state-criminal collusion), and other relevant subjects lend their expertise to strengthen criminal investigation in Mexico.

Corruption and corporate capture of the State

33. Impunity is closely linked to corruption (which proliferates due to the lack of effective investigation and punishment of corrupt acts, financial crimes,⁷⁷ and related crimes). Multiple studies in recent years estimate that corruption costs 9-10% of Mexico's Gross Domestic Product.⁷⁸ The most recent evaluation by the Financial Action Task Force (FATF) concluded that the "significant level of corruption" among authorities "undermines their capacity to investigate and prosecute serious offences."⁷⁹ In addition to a significant drop in the investigation of certain crimes in recent years,⁸⁰ the FATF found that from 2013 to 2016, Mexico opened 12,987 investigations related to acts of corruption, presenting charges in 13% and achieving convictions in just 0.39%.⁸¹ In the aforementioned *Rule of Law Index*, Mexico ranks #102 of 113 in absence of corruption.⁸² A dozen of Mexico's governors have been investigated, accused, and/or arrested for corruption or collusion with criminal actors in the last five years, but experts in the field indicate that these represent only a fraction of such authorities implicated in similar crimes.⁸³



34. Another phenomenon closely linked to impunity is the corporate capture of the State, that is, the undue influence exerted by corporations over public institutions, manipulating them so that they act according to the corporations' interests. This leads to diplomacy aimed at protecting corporate interests; manipulation of communities with the goal of making them accept development projects; judicial interference aimed at achieving favorable rulings for companies and adverse rulings for victims who seek reparations or accountability; political and legislative influence to create business-friendly laws; and the use of public security forces to work for businesses in local communities, intimidating the population and repressing protesters, among other actions.⁸⁴ The foregoing creates a permissive environment for unpunished human rights violations.

Risk and impunity: effects on victims' fight for justice

35. For many victims and communities, unpunished violence provokes internal forced displacement: 29 such massive displacements occurred in 2016, affecting at least 23,169 people in 12 states: Chiapas, Chihuahua, Durango, Guerrero, Hidalgo, Jalisco, Michoacán, Oaxaca, Sinaloa, Tamaulipas, Veracruz, and Zacatecas.⁸⁵ Women and indigenous communities are among the most affected;⁸⁶ the government does not respond to the phenomenon of displacement, despite the severity of its consequences, including the deaths of displaced persons due to their fragile living conditions, as occurred in Chiapas at the end of 2017.⁸⁷

36. As a consequence of authorities' negligence or refusal to investigate crimes, it is also common for victims, their families, or their allies to carry out their own investigatory activities, risking revictimization, and frequently placing their physical integrity in danger, which has led to the murder of diverse victims' family members, including a dozen mothers and fathers of disappeared individuals.⁸⁸ It is important to point out that collectives of family members of the disappeared are obliged to carry out their own searches in the field, uncovering mass graves, due to the government's failure to search diligently for their loved ones or return their mortal remains to the families.⁸⁹



37. As for victims' access to information and participation in the investigations that arise from their criminal complaints, obstacles abound: the opacity with which the authorities act, failures to inform victims of their case status, restrictions on access to files, refusal to give victims copies, or obstacles to the naming of independent forensic experts to assist in the investigations. In some cases, not even the intervention of the Federal Judicial Branch has been sufficient to overcome such practices.

38. Despite the 2013 General Victims' Law (LGV),⁹⁰ which establishes a series of rights, procedures, and services to attend and provide reparations to victims of crime and human rights violations, the government is far from guaranteeing victims' rights. Victims face slow, bureaucratic, and ineffective procedures. Due to the widespread nature of the violence in recent years, the number and types of victims have multiplied, but the institutions charged with responding to this growing population have limited capacity to provide attention that takes into account the different needs of victims; on the contrary, these institutions have often treated their target population in a revictimizing way.

39. Mexico's victim attention system is also structurally inoperable. If the Executive Victim Attention Commission (CEAV, the federal body responsible for implementing the LGV) is unable to carry out its mandate for reasons like those mentioned here, and reports that its state offices lack adequate resources to respond to victims, then the state governments' victim attention commissions (in the half of states that even have a commission) are even less equipped in terms of resources, knowledge, and preparation to carry out their mission, keeping in mind that the vast majority of crimes fall under state, not federal, jurisdiction. The situation is so serious that a group of Mexican and international civil society organizations sent a communication to the UN Working Group on Enforced Disappearance specifically to denounce the obstacles and frustration faced by victims who seek reparations before national bodies.⁹¹

40. Also of concern is the uncoordinated and deficient work of the country's national human rights institutions, whose investigation criteria and practices mean that the vast majority of complaints lodged before them do not lead to complete investigations or recommendations; in addi-



tion, these bodies lack guarantees of full independence, especially budgetary independence.⁹²

Lack of transparency and access to relevant information

41. In Mexico, access to information regarding serious human rights violations, especially information located in military files and facilities, is not easy. Additionally, the National Institute for Transparency, Access to Information, and Protection of Personal Data (INAI) has refused to classify certain cases as serious human rights violations precisely because such a classification would mandate allowing access to the information contained in the casefile; such access would, of course, contribute to guaranteeing victims' right to truth.

42. Frequently, relevant official data is not disaggregated so as to have a complete picture of the situation of different social groups. For example, the Puebla Attorney General's Office reported that from 2011-2016 it opened 253 investigations into crimes against foreign nationals,⁹³ but the same state's Judicial Branch reported that it was impossible to know the number of convictions for crimes against undocumented migrants because courts do not register that data.⁹⁴ Examples like this are common across a range of sectors and constitute an obstacle to designing effective public policies.

Need for an autonomous federal Attorney General's Office with sufficient technical capacity

43. As of 2014, the Constitution establishes the creation of an autonomous Attorney General's Office (FGR) to replace the PGR.⁹⁵ The FGR has not begun operating because Congress must adopt an express declaration and approve the law that creates the new body. In this context, the civil society collective *#FiscalíaQueSirva* ("#AttorneyGeneralThatWorks") has called on Congress to work with experts, including specialized civil society organizations, to design the institutional architecture of the FGR, ensuring that the new body has true autonomy as well as the technical capacity needed to respond to the country's criminal justice challenges.

Section III:

Lack of implementation of past UPR recommendations

44. Of the recommendations adopted in Mexico's 2009 and 2013 UPR cycles, those fully or partially implemented generally relate to legal reforms or the withdrawal of treaty reservations. However, there have not been significant real-world transformations in the lives of Mexico's people, leaving us with two cycles' worth of UPR recommendations with limited or absent substantive implementation.

45. In the two prior cycles, the Human Rights Council issued 267 recommendations,⁹⁶ which, except for a few, were accepted.⁹⁷ We annex an Excel spreadsheet in which diverse civil society organizations provide information on the situation of many past UPR recommendations and in particular, of certain social groups hardest hit by ongoing violations in these areas.⁹⁸

46. To promote implementation of the recommendations from Mexico's second UPR, in 2014 a broad coalition of civil society organizations systematized the recommendations, translating them into concrete lines of action.⁹⁹ Having presented this input to the three branches of the federal government¹⁰⁰ and to state governments, the organizations and the Ministry of the Interior agreed upon a process of inter-agency thematic working groups to implement the recommendations, not only at the federal level but with state governments (through the National Conference of Governors, CONAGO). In October 2014, the CONAGO adopted a Point of Agreement committing to complying with the recommendations.¹⁰¹ However, the inter-agency working groups never assembled and our request to re-open the process was unsuccessful. Aside from a few public conferences,¹⁰² no specific UPR compliance mechanism materialized (at least, not publicly or with civil society participation). In any event, the lack of implementation speaks clearly to the insufficiency of Mexico's internal processes in this regard.



47. On a different note, today there are issues related to past recommendations, but that have not been the object of specific recommendations in the past, such as the worrying increase in detentions of migrant children; detentions of potential asylum seekers along the southern border; the participation of businesses in human rights violations; environmental damage; lack of access to water; forced displacement; and the coordination obstacles posed by Mexico's federal structure. Similarly, past recommendations have not explicitly addressed victims' rights to attention and reparations or the implementation of legislation in this area.



Section IV:

Follow-up mechanism for UPR recommendations

48. In light of the experience described above, we conclude that it is necessary for the Human Rights Council to play a more active role between the third and fourth UPR cycles. This conclusion is in line with the joint statement signed by more than 60 States, including Mexico, presented before the Council on March 17, 2017, in which the States indicate in relation to the third UPR cycle in general, “it is time to focus on the sustainable implementation of recommendations” and “technical assistance has an important role to play in helping states to implement their accepted recommendations.”¹⁰³ We also recall Resolution A/HRC/RES/30/25,¹⁰⁴ which encourages States to seek “technical assistance and capacity-building” to strengthen their human rights follow-up processes.

49. In this sense, we believe it is crucial for the Council to promote the implementation of its recommendations, with a particular emphasis on combatting impunity. Useful actions in this regard could include offers of technical assistance; the inclusion of an agenda point under Item 6 to receive an update on implementation of the recommendations and any need for assistance to optimize compliance; and/or for the Council to request the Mexico field office of the UN High Commissioner for Human Rights to issue an annual update identifying advances and challenges.

50. Actions such as these would help to ensure that at the national level, there is a sustained and effective internal process to implement the recommendations. This internal process, which should involve all federal and state governmental institutions responsible for implementation, could be coordinated through the Ministry of the Interior (which has served in the past as a coordinating hub for compliance with international judgments and recommendations), while maintaining permanent communication with the Ministry of Foreign Relations (as the government’s permanent point of contact with international bodies); the



federal and state human rights institutions should also participate actively to monitor and promote implementation, and finally, this national effort should seek the participation of civil society and the UN High Commissioner's field office. The objective should be to construct and execute a concrete and – where possible – time bound action plan to implement the recommendations.

51. Convinced of the need to advance along the lines already highlighted by members of the Council and to focus the third UPR cycle on implementation – rather than simply generating another list of recommendations – we urge the Council and its member States to propose concrete actions from the international level to promote effective implementation, with the aim of turning the UPR's recommendations into real and sustainable changes for Mexico's population.



Notes

¹ Since Mexico's last UPR, the number of people living in poverty, according to official statistics, has fluctuated between 53.3 and 55.5 million, with more than half of the population below the income poverty line. If we include the different categories of social need, only one-fifth of Mexico's population is classified as "neither poor nor vulnerable to falling into poverty" according to the government. National Development Policy Evaluation Council (CONEVAL), *Measurement of poverty in Mexico and in its states 2016*, p. 9, 20, 22, https://www.coneval.org.mx/Medicion/MP/Documents/Pobreza_16/Pobreza_2016_CONEVAL.pdf.

² http://www.diputados.gob.mx/LeyesBiblio/pdf/LGPIST_260617.pdf.

³ http://www.diputados.gob.mx/LeyesBiblio/pdf/LGMDFP_171117.pdf.

⁴ See, *inter alia*, Order of the Court of April 17, 2015, Cabrera García and Montiel Flores v. Mexico, Monitoring of Compliance with Judgment, p. 5-10, http://www.corteidh.or.cr/docs/supervisiones/cabrera_17_04_15.pdf.

⁵ http://www.politicamigratoria.gob.mx/es_mx/SEGOB/Programa_Especial_de_Migracion_2014-2018_PEM.

⁶ http://www.dof.gob.mx/nota_detalle.php?codigo=5351463&fecha=08/07/2014. For a summary of the effects of this program, see Northern Border College (COLEF) and the National Human Rights Commission (CNDH), *¿What is the Southern Border Program?*, Observatory of Migration Legislation and Policy (2016), <http://observatoriocollef.org/wp-content/uploads/2016/06/BOLET%C3%8DN-1-Alejandra-Casta%C3%B1eda.pdf>.

⁷ Migration Law, art. 111.V, http://www.diputados.gob.mx/LeyesBiblio/pdf/LMigra_091117.pdf.

⁸ See the alternative report presented to the UN Committee on Migrant Workers (CMW) at: http://sinfronteras.org.mx/wp-content/uploads/2017/11/Informe-Alternativo_OS-C_M%C3%A9xico.pdf. See also Citizens' Council of the National Migration Institute, *Mission to Monitor Migrant Detention Stations and Provisional Holding Facilities of the National Migration Institute* (2017), http://cdhfraymatias.org/web/wp-content/uploads/2017/08/CCINM-Informe_Final-Monitoreo.pdf and <http://cdhfraymatias.org/web/wp-content/uploads/2017/08/CCINM-Resumen-Ejecutivo.pdf>.

⁹ <http://www.diputados.gob.mx/LeyesBiblio/ref/lgdna.htm>.

¹⁰ Following two years of joint work between civil society, UN agencies, and some Senators, in April 2016 the Senate Migration Commission approved a bill that would align the Migration Law with the LGDNNA, eliminating the possibility for children, adolescents, and their families to be deprived of liberty; broadening protections for children and adolescents (whether accompanied, unaccompanied, or separated); and requiring the government to guarantee and protect the rights to a dignified life, non-discrimination, participation, the principle of family unity, and others, guided by the best interests of the child.

¹¹ Data provided by the Ministry of the Interior, available at: http://www.politicamigratoria.gob.mx/work/models/SEGOB/CEM/PDF/Estadisticas/Boletines_Estadisticos/2016/Boletin_2016.pdf, p. 141.



¹² The cross-cutting nature of the rights and principles recognized in the LGDNNA requires the reform of other laws and secondary norms, such as civil, criminal, family, and procedural codes; social assistance laws; health and education legislation, etc.

¹³ <http://www.diputados.gob.mx/LeyesBiblio/pdf/LNEP.pdf>.

¹⁴ For example, the state of Coahuila has enacted a series of norms and programs to fight enforced disappearances: the Program to Attend Families of the Disappeared (PROFADE) (Dec. 11, 2013); reforms to the Criminal Code of Coahuila (May 20, 2014) defining the crime of enforced disappearance; the Victims' Law of Coahuila (May 2, 2014); and the Coahuila State Law for the Detection, Recovery, and Forensic Identification of Persons (Dec. 20, 2016), none of which have been implemented adequately, due to lack of assignation of human and material resources. Information provided by the Fray Juan de Larios Diocesan Human Rights Center (www.frayjuandelarios.org/).

¹⁵ http://www.diputados.gob.mx/LeyesBiblio/pdf/LSInt_211217.pdf.

¹⁶ Internal Security Law, art. 23, http://www.diputados.gob.mx/LeyesBiblio/pdf/LSInt_211217.pdf.

¹⁷ Internal Security Law, art. 9, http://www.diputados.gob.mx/LeyesBiblio/pdf/LSInt_211217.pdf.

¹⁸ Internal Security Law, art. 4.I-III, http://www.diputados.gob.mx/LeyesBiblio/pdf/LSInt_211217.pdf.

¹⁹ Internal Security Law, art. 30, http://www.diputados.gob.mx/LeyesBiblio/pdf/LSInt_211217.pdf.

²⁰ Internal Security Law, art. 15, http://www.diputados.gob.mx/LeyesBiblio/pdf/LSInt_211217.pdf.

²¹ Hydrocarbon Law, art. 96, para. 2, http://www.diputados.gob.mx/LeyesBiblio/pdf/LHidro_151116.pdf. See also Electricity Law, art. 71, para. 2, http://www.diputados.gob.mx/LeyesBiblio/pdf/LIElec_110814.pdf.

²² See articles 100, 101, 102, 103, 104, 105, 106, 107, 108, and 109 of the Hydrocarbon Law (http://www.diputados.gob.mx/LeyesBiblio/pdf/LHidro_151116.pdf) and articles 73, 74, 75, 76, 77, 78, 79, 80, 81, and 82 of the Electricity Law (http://www.diputados.gob.mx/LeyesBiblio/pdf/LIElec_110814.pdf).

²³ Jurisprudence adopted by the Supreme Court upon resolving the Contradiction of Criteria 360/2013, which recognizes that businesses have human rights; this has led private and para-state businesses to invoke national and international human rights law in order to criminalize those who oppose their projects. An example is the complaint by the Federal Electricity Commission against individuals belonging to the National Assembly of Electricity Users (ANUEE), arguing that the users are violating the company's human rights. Information provided by the Fray Francisco de Vitoria Human Rights Center (www.derechoshumanos.org.mx).

²⁴ Data from the Executive Secretariat of the National Public Security System, http://secretariadoejecutivo.gob.mx/docs/pdfs/cifras%20de%20homicidio%20doloso%20secuestro%20etc/HDSECEXTRV_012018.pdf and <http://secretariadoejecutivo.gob.mx/docs/pdfs/nueva-metodologia/CNSP-Delitos-2018.pdf>.



²⁵ Information provided by the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH). These and other data on internal forced displacement are available at <http://cmdpdh.org/temas/desplazamiento-interno/>.

²⁶ The Rapporteur also pointed out that the impunity of the present has its roots in the impunity that has prevailed for state crimes committed during Mexico's Dirty War of the 1970's. *Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns: Mission to Mexico*, April 28, 2014, UN Doc. A/HRC/26/36/Add.1, para. 11, 64-69.

²⁷ *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez: Mission to Mexico*, Dec. 29, 2014, UN Doc. A/HRC/28/68/Add.3, para. 34.

²⁸ According to data from the National Geography and Statistics Institute (INEGI), out of 2,420,000 fieldworkers, over 800,000 (34%) receive no payment, while another 750,000 (31%) earn only the minimum wage. See www.inegi.org.mx/saladeprensa/aproposito/2016/agricola2016_0.pdf, p. 13.

²⁹ Information provided by the Tlachinollan Human Rights Center (www.tlachinollan.org) based on its documentation of the situation of indigenous fieldworkers.

³⁰ <http://transrespect.org/es/tdov-2017-tmm-update/> and <https://transrespect.org/es/tmm-update-trans-day-remembrance-2017/>.

³¹ National Survey on Victimization and Perception of Public Security (ENVIPE) 2017. See press release #417/17, Sept. 26, 2017, p. 10, http://www.inegi.org.mx/saladeprensa/boletines/2017/envipe/envipe2017_09.pdf.

³² National Survey on Victimization and Perception of Public Security (ENVIPE) 2017. See press release #417/17, Sept. 26, 2017, p. 2, http://www.inegi.org.mx/saladeprensa/boletines/2017/envipe/envipe2017_09.pdf.

³³ National Survey on Victimization and Perception of Public Security (ENVIPE) 2017. See press release #417/17, Sept. 26, 2017, p. 11, http://www.inegi.org.mx/saladeprensa/boletines/2017/envipe/envipe2017_09.pdf.

³⁴ Center Prodh, *The magnitude of the human rights crisis in Mexico* (2015), http://www.centroprodh.org.mx/index.php?option=com_docman&task=doc_details&gid=214&temid=28&lang=es. Open Society Justice Initiative, *Undeniable Atrocities: Confronting Crimes Against Humanity in Mexico* (2016, 2nd ed.), p. 16, <https://www.opensocietyfoundations.org/sites/default/files/undenialble-atrocities-2nd-edition-20160808.pdf>.

³⁵ <https://www.amnesty.org/en/latest/news/2017/07/mexico-las-detenciones-arbitrarias-empanan-el-nuevo-sistema-de-justicia/>. See Amnesty International, *False suspicions: Arbitrary Detentions by Police in Mexico* (2017), <https://www.amnesty.org/download/Documents/AMR4153402017ENGLISH.PDF>. See also Amnesty International, Annual Report 2017/18, p. 257, <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF> ("Arbitrary arrests and detentions remained widespread... Arbitrary arrests often included the planting of evidence, commonly guns and illicit drugs, by law enforcement officials. Authorities appeared to especially target those who had historically faced discrimination, in particular young men living in poverty.")



³⁶ Legal Assistance for Human Rights, *Access to Justice for Indigenous People Deprived of Liberty in the States of Chiapas and Oaxaca* (2017), <https://www.asilegal.org.mx/images/PDF/Informe-Indigenas.pdf>.

³⁷ In 2015 there were 96 women imprisoned in Women's Social Reinsertion Center #4 (CERSS) in Tapachula, Chiapas; 23 of them were accused of trafficking in persons (24% of the inmate population). Of these, 70% came from Central America: 50% were Honduran, 17% Salvadoran, and 5% Guatemalan. Center Prodh, Migration Program of the Iberoamerican University of Mexico City, Fray Matías de Córdova Human Rights Center, and Human Rights Program of the Iberoamerican University of Mexico City, *Criminalization of Migrant Women: Analysis of Six Cases on the Southern Border* (2017), p. 59, http://www.centroprodh.org.mx/index.php?option=com_docman&Itemid=28&lang=es.

³⁸ <http://data.worldjusticeproject.org/#/groups/MEX>. Complete report available at: https://worldjusticeproject.org/sites/default/files/documents/WJP_ROLI_2017-18_Online-Edition.pdf. Similarly, in the 2017 *Global Impunity Index*, which evaluates 69 countries for which sufficient data is available for comparison of various measures of impunity, Mexico ranks #1 in impunity in the Americas and #4 in the world. Center for Impunity and Justice Studies, University of the Americas Puebla & UDLAP Jenkins Graduate School, *GII-2017 Global Impunity Index*, p. 35, http://www.udlap.mx/cesij/files/IGI-2017_eng.pdf.

³⁹ This is the case of crimes committed in the states of Baja California (<https://www.fidh.org/IMG/pdf/mexique642ang2014web.pdf>) and Coahuila (https://www.fidh.org/IMG/pdf/angmexico_coahuila_ongoing_crimes_against_humanity_fidh-final_a_revisar-1.pdf).

⁴⁰ Inter-American Commission on Human Rights, *Situation of Human Rights in Mexico* (2016), fn. 293, <http://www.oas.org/en/iachr/reports/pdfs/Mexico2016-en.pdf>. The Federal Judiciary Council reported only eight convictions and two acquittals for torture from December 1, 2006 to December 31, 2016. Federal Judiciary Council, Information Request #0320000161517.

⁴¹ Federal Prosecutor's Office, Information Requests #0001700016518, #0001700016618, and #0001700016918.

⁴² Federal Prosecutor's Office, Information Request #0001700017318.

⁴³ Federal Prosecutor's Office, Information Requests #0001700295417 and 0001700219617.

⁴⁴ Amnesty International, *Surviving Death: Police and Military Torture of Women in Mexico* (2016), <https://www.amnesty.org/download/Documents/AMR4142372016ENGLISH.PDF>. Center Prodh, Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH), Tlachinollan Human Rights Center, and Just Associates (JASS), *Sexual Torture in Mexico: Context, Patterns, and Impacts* (2015), http://www.centroprodh.org.mx/index.php?option=com_docman&task=doc_details&gid=207&Itemid=28&lang=es.

⁴⁵ National Registry of Data on Disappeared or Missing Persons (RNPED), <http://secretariadoejecutivo.gob.mx/rnped/consulta-publica.php> (consulted February 16, 2018).

⁴⁶ Federal Prosecutor's Office, Information requests #0001700295117, #0001700121517, #0001700018017, #0001700018117, and #0001700114417.



⁴⁷ Data presented to the UN Committee against Enforced Disappearances (CED) in February 2018, http://tbinternet.ohchr.org/Treaties/CED/Shared%20Documents/MEX/INT_CED_AFR_MEX_30336_S.pdf.

⁴⁸ *Follow-up report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Mexico*, February 17, 2017, UN Doc. A/HRC/34/54/Add.4, para. 29.

⁴⁹ Information provided by the Fray Juan de Larios Diocesan Human Rights Center (www.frayjuandelarios.org/) based on its documentation of Coahuila disappearance cases.

⁵⁰ Information provided by the Justice Center for Peace and Development (CEPAD, <https://cepad.org.mx/>) based on its documentation of Jalisco disappearance cases.

⁵¹ Information provided by the Citizen Human Rights Commission of the Northwest, <https://www.facebook.com/CCDH-Comisi%C3%B3n-Ciudadana-de-Derechos-Humanos-del-Noroeste-AC-861672087185310/>.

⁵² *Report on the crisis of enforced disappearances in Mexico* (presented for the public hearing of March 20, 2015 during the 154th period of sessions of the Inter-American Commission on Human Rights), p. 9 (“The Fray Juan de Larios Diocesan Human Rights Center (Saltillo, Coahuila) searched for a sample of 147 cases it had documented, finding that only 26 were included in the RNPED. Likewise, Citizens in Support of Human Rights (CADHAC), in Nuevo León, carried out this exercise with 61 disappeared people to see if they were included, finding that 23 were registered and 38 were not. In the case of the “Until we Find them” Committee, of 82 cases documented in three of its reports on disappearances of human rights defenders, only two were registered. Fundar [Center for Analysis and Investigation] likewise reviewed the situation of 34 cases in which it provides assistance, only 12 of which appeared in the RNPED.”)

⁵³ I(dh) eas Strategic Human Rights Litigation, “Feminicides and disappearances of girls, adolescents, and women in Mexico State,” p. 1, <http://www.idheas.org.mx/files/NotaFeminicidioYdesaparicionEdoMex.pdf>.

⁵⁴ http://www.pgr.gob.mx/que-es-la-pgr/PGR_Normateca_Sustantiva/Protocolo%20Desaparici%C3%B3n%20Forzada.pdf.

⁵⁵ Ximena Suárez, Andrés Díaz, José Knippen, & Maureen Meyer, *Access to Justice for Migrants in Mexico: a Right that Exists only on the Books* (2017), p. 4, https://www.wola.org/wp-content/uploads/2017/07/Access-to-Justice-for-Migrants_July-2017.pdf. In 2014 and 2016, authorities, especially the Federal Police, were the principal perpetrators of approximately one fifth of crimes against migrants. REDODEM, *Invisible migrants, tangible violence* (2014), p. 37, 41, <http://www.sjmmexico.org.mx/wp-content/uploads/2015/07/informe-migrantes-2014.pdf>. REDODEM, *Migrants in Mexico: traveling a path of violence* (2016), p. 103, <http://migrare.org.mx/book/informe-2016-migrantes-en-mexico-recorriendo-un-camino-de-violencia/>.

⁵⁶ National Geography and Statistics Institute (INEGI), “Statistics for... Children’s Day (April 30th),” April 27, 2017, p. 1, http://www.inegi.org.mx/saladeprensa/aproposito/2017/ni%C3%B1o2017_Nal.pdf.

⁵⁷ Trafficking of minors, withholding or taking of minors without decision-making capacity, statutory rape, incest, corruption of minors without decision-making capacity, prostitution of minors without decision-making capacity, and child pornography.



⁵⁸ Analysis carried out by the Network for Children’s Rights in Mexico (REDIM, <http://www.derechosinfancia.org.mx/>) using official data available in the 2016 Censuses of State Criminal Investigations and Administration of Justice (covering the year 2015), http://www.inegi.org.mx/Sistemas/Olap/Proyectos/bd/censos/gobierno2016/CN-PJE2016/PresDelitos.asp?s=est&proy=cnpj2016_presdelitos;p=cnpj2016 and <http://www.beta.inegi.org.mx/proyectos/censosgobierno/estatal/cnije/2016/>, respectively.

⁵⁹ *Joint submission Mexican CSOs and networks in coalition on ESCR- Full report (spanish)* (2017), available at: “CESCR - International Covenant on Economic, Social and Cultural Rights: 63 Session (12 Mar 2018 - 29 Mar 2018): Mexico: Info from Civil Society Organizations (for the session)”, p. 160, 161, http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/MEX/INT_CESCR_CSS_MEX_28752_S.pdf.

⁶⁰ See Article 19, Mexico and Central America Office, Historical information on murdered journalists, <https://articulo19.org/periodistasasesinados/>. See also https://www.gob.mx/cms/uploads/attachment/file/285955/ESTADISTICAS_Diciembre_2017.pdf.

⁶¹ See the National Network of Civilian Human Rights Organizations “All Human Rights for All” (Red TDT), *Hope does not Run Out: the Situation of Human Rights Defenders under the Presidency of Enrique Peña Nieto* (2017), p. 60, <http://redtdt.org.mx/acciondefensores/index.php/2017/09/05/personas-defensoras-en-el-periodo-de-eqn/#page/6>, and Red TDT, “2018: A key year to defend our rights,” <http://redtdt.org.mx/?p=10225>.

⁶² Information provided by Article 19, Mexico and Central America Office, 2012-2017, <https://articulo19.org/>.

⁶³ Information provided by Urgent Action for Human Rights Defenders (ACUDEH), 2013-2017, <http://acuddeh.org/>.

⁶⁴ *Statistical report by the Special Prosecutor for Crimes against Freedom of Expression* (2017), p. 8, 23, https://www.gob.mx/cms/uploads/attachment/file/285955/ESTADISTICAS_Diciembre_2017.pdf.

⁶⁵ See Fernando Damián, “In six years, only 3 convictions for journalists,” March 28, 2017, http://www.milenio.com/politica/diputados-periodistas-asesinados-periodismo-feadle-milenio-noticias_0_926907438.html.

⁶⁶ Information provided by the Fray Bartolomé de las Casas Human Rights Center (<https://frayba.org.mx/>).

⁶⁷ See the National Network of Civilian Human Rights Organizations “All Human Rights for All” (Red TDT), *Hope does not Run Out: the Situation of Human Rights Defenders under the Presidency of Enrique Peña Nieto* (2017), p. 44, <http://redtdt.org.mx/acciondefensores/index.php/2017/09/05/personas-defensoras-en-el-periodo-de-eqn/#page/6>.

⁶⁸ Mexican Center for Environmental Law (CEMDA), *Annual Report on the Situation of Environmental Rights Defenders in Mexico, 2017*, p. 17-18, <http://www.cemda.org.mx/wp-content/uploads/2018/03/DERECHOS-HUMANOS-AMBIENTALES.pdf>.

⁶⁹ For example, the Foundation for Justice and the Democratic Rule of Law (FJEDD, <http://fundacionjusticia.org/>) has filed *amparo* constitutional challenges requesting that the Federal Judicial Branch order various prosecutors’ offices (especially the PGR) to respect the rights of victims. On some occasions, the Supreme Court has assumed jurisdiction and set important precedents, which, however, are not respected by the investigating authorities.



⁷⁰ Center Prodh, *Breaking the Cycle of Impunity* (2017), p. 14 onward, http://www.centroprodh.org.mx/index.php?option=com_docman&task=doc_details&gid=232&Itemid=28&lang=es.

⁷¹ Center Prodh, *Breaking the Cycle of Impunity* (2017), p. 16, http://www.centroprodh.org.mx/index.php?option=com_docman&task=doc_details&gid=232&Itemid=28&lang=es.

⁷² Center Prodh, *Breaking the Cycle of Impunity* (2017), p. 32-33, http://www.centroprodh.org.mx/index.php?option=com_docman&task=doc_details&gid=232&Itemid=28&lang=es.

⁷³ Center Prodh, *Breaking the Cycle of Impunity* (2017), p. 17-18, http://www.centroprodh.org.mx/index.php?option=com_docman&task=doc_details&gid=232&Itemid=28&lang=es.

⁷⁴ Center Prodh, *Breaking the Cycle of Impunity* (2017), p. 23, 27, http://www.centroprodh.org.mx/index.php?option=com_docman&task=doc_details&gid=232&Itemid=28&lang=es.

⁷⁵ *Recommendations on Mexico made by the UN High Commissioner for Human Rights, Mr. Zeid Ra'ad Al Hussein, following up on his official visit to the country in October 2015*, Recommendation #1, http://hchr.org.mx/images/doc_pub/RecommendationsMX_High-CommissionerHR_EN.pdf.

⁷⁶ *Response of the Mexican state to the recommendations made by the High Commissioner for Human Rights, Mr. Zeid Ra'ad al Hussein, following his visit to the country on 5 to 7 October 2015*, p. 1, http://hchr.org.mx/images/doc_pub/RespuestaGobMex_EN.pdf.

⁷⁷ FATF and GAFILAT, *Anti-money laundering and counter-terrorist financing measures - Mexico*, Fourth Round Mutual Evaluation Report (2018), FATF, Paris, p. 41-42, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Mexico-2018.pdf>.

⁷⁸ María Amparo Casar, *Mexico: Anatomy of Corruption* (2015), Economic Research and Teaching Center (CIDE) & Mexican Institute for Competitiveness (IMCO), p. 42, https://imco.org.mx/wp-content/uploads/2015/05/2015_Libro_completo_Anatomia_corruption.pdf.

⁷⁹ FATF and GAFILAT, *Anti-money laundering and counter-terrorist financing measures - Mexico*, Fourth Round Mutual Evaluation Report (2018), FATF, Paris, p. 59, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Mexico-2018.pdf>.

⁸⁰ FATF and GAFILAT, *Anti-money laundering and counter-terrorist financing measures - Mexico*, Fourth Round Mutual Evaluation Report (2018), FATF, Paris, p. 61, 62, 64, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Mexico-2018.pdf>.

⁸¹ FATF and GAFILAT, *Anti-money laundering and counter-terrorist financing measures - Mexico*, Fourth Round Mutual Evaluation Report (2018), FATF, Paris, p. 64, table 18, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer4/MER-Mexico-2018.pdf>.

⁸² <http://data.worldjusticeproject.org/#/groups/MEX>. Complete report available at: https://worldjusticeproject.org/sites/default/files/documents/WJP_ROLI_2017-18_Online-Edition.pdf.

⁸³ Elisabeth Malkin, "Corruption at a Level of Audacity 'Never Seen in Mexico,'" *The New York Times*, April 19, 2017, <https://www.nytimes.com/2017/04/19/world/americas/in-mexico-mounting-misdeeds-but-governors-escape-justice.html?ref=nyt-es&...>



cid=nyt-es&subid=article. See also Misael Zavala, "Corruption: In five years, 14 ex-governors fall," October 9, 2017, <http://www.eluniversal.com.mx/nacion/politica/corrupcion-en-cinco-anos-caen-14-ex-gobernadores>.

⁸⁴ International Network for Economic, Social and Cultural Rights (ESCR-Net), "Characteristics of Corporate Capture", <https://www.escr-net.org/corporateaccountability/corporatecapture/characteristics-corporate-capture>.

⁸⁵ Information provided by the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH). These and other data on internal forced displacement are available at: <http://cmdpdh.org/temas/desplazamiento-interno/>.

⁸⁶ <http://cmdpdh.org/temas/desplazamiento-interno/>.

⁸⁷ <http://cmdpdh.org/2017/12/urge-proteccion-atencion-cientos-familias-desplazadas-chiapas/>.

⁸⁸ Paris Martínez, "These are the mothers and fathers murdered for looking for their disappeared children", *Animal Político*, May 15, 2017, <https://www.animalpolitico.com/2017/05/madres-padres-hijos-desaparecidos/>.

⁸⁹ Open Society Justice Initiative, *Undeniable Atrocities: Confronting Crimes Against Humanity in Mexico* (2016, 2nd ed.), p. 15, 158, <https://www.opensocietyfoundations.org/sites/default/files/undenialble-atrocities-2nd-edition-20160808.pdf>.

⁹⁰ http://www.dof.gob.mx/nota_detalle.php?codigo=5284359&fecha=09/01/2013.

⁹¹ Fray Juan de Larios Diocesan Human Rights Center, Women's Human Rights Center (CEDEHM), Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH), Foundation for Justice and the Democratic Rule of Law (FJEDD), Mexican Human Rights and Democracy Institute, I(dh)eas Strategic Human Rights Litigation, & TRIAL International, *Mexico: Report to the Working Group on Enforced or Involuntary Disappearances regarding the obstacles faced by victims of disappearance cases who seek access to assistance and reparations measures* (2016), https://trialinternational.org/wp-content/uploads/2016/11/10-11-16_DenunciageneralGTDFI-FINAL.pdf.

⁹² Information provided by Useful Effect (www.efectoutil.org) based on its monitoring of national human rights institutions.

⁹³ Puebla Attorney General's Office, Information Request #00451217, July 6, 2017.

⁹⁴ Puebla Judicial Branch, Information Request #459/2017, June 22, 2017.

⁹⁵ See article 102 of the Constitution, <https://www.juridicas.unam.mx/legislacion/ordenamiento/constitucion-politica-de-los-estados-unidos-mexicanos#10653>.

⁹⁶ The 2009 UPR led to 91 recommendations, while the 2013 UPR led to 176.

⁹⁷ The unaccepted recommendations referred to questions of *arraigo* (prolonged detention without charge), organized crime, treaty ratifications, international criminal law, and military jurisdiction. There were also two recommendations that were rightly rejected by the Mexican government: "Respect and defend life from conception to natural death..." and "Preserve and protect the natural family institution and marriage as the conjugal union between a man and a woman based on their free consent." (para. 148.48 and 148.114 of the 2013 UPR recommendations, UN Doc. A/HRC/25/7.)

⁹⁸ In general, the topics of past recommendations can be grouped as: i) recognizing the jurisdiction of treaty bodies and ratifying international instruments; ii) legislative ad-



justments and strengthening of human rights protections in law; iii) National Human Rights Program; iv) strengthening the rule of law (criminal investigations, administration of justice, penitentiary system, military jurisdiction); v) autonomy of national human rights institutions; vi) eradication of *arraigo*, human trafficking, torture, and enforced disappearance; vii) citizen security models; viii) religious freedom; ix) poverty reduction; x) measures aimed at social groups in situations of vulnerability (women, children and adolescents, senior citizens, indigenous peoples, people of African descent, migrants); xi) sexual and reproductive rights; xii) journalists and human rights defenders; xiii) rights to housing and education; xiv) marriage equality.

⁹⁹ *Obstacles and priorities in the implementation of the Recommendations for Mexico from the Universal Periodic Review (UPR) 2013-2014* (July 2014), <http://documenta.org.mx/layout/publicaciones/informes-generales/obstacles-priorities-implementation-recomendatos-mexico-universal-periodic-review-2014.pdf>.

¹⁰⁰ In response to the information presented, the Supreme Court hosted a public forum in December 2014 to reflect on the implications of the UPR recommendations for the Judicial Branch.

¹⁰¹ Point of Agreement #21 of the XLVII Ordinary Meeting of the National Conference of Governors, October 10, 2014, <https://www.conago.org.mx/comisiones/derechos-humanos#listaAcuerdos>.

¹⁰² https://www.gob.mx/cms/uploads/attachment/file/55860/Programa_Foro_Regional_para_el_Mecanismo_del_Examen_Periodico_Universal.pdf.

¹⁰³ Human Rights Council 34: Joint statement under Item 6 (Universal Periodic Review), <https://www.gov.uk/government/news/human-rights-council-34-joint-statement-under-item-6-universal-periodic-review>.

¹⁰⁴ Human Rights Council, 30th period of sessions, A/HRC/RES/30/25, https://www.upr-info.org/sites/default/files/general-document/pdf/a_hrc_res_30_25_e.pdf.



Joint UPR report 2018: Structural recommendations for Mexico

1) International anti-impunity mechanism: Create and install an anti-impunity mechanism to support the Mexican State in the design and implementation of legal and institutional reforms, as well as other strategies, to improve investigations and increase convictions for serious crimes and human rights violations committed by public and private actors. In this mechanism, renowned international experts in areas such as impunity, criminal investigation, macrocriminality, and others, would draw on their expertise to help strengthen criminal justice and lower impunity in the country, and could publish recommendations, findings, and periodic reports on their work.

2) Repeal of the Internal Security Law: Repeal the Internal Security Law during the first congressional session of 2019.

3) Transition to a citizen security model: Present, within six months of accepting UPR recommendations, a time bound plan to strengthen and reform Mexico's police institutions so that these bodies can take over public security tasks in the country, and for the withdrawal of the armed forces from these tasks; the plan should take into account input from experts (individuals and institutions) that work on these topics, including academia and civil society.

4) Tackling impunity through effective and autonomous criminal investigations:

Create an autonomous and fully independent federal Attorney General's Office with the technical capacity to investigate the patterns of criminal conduct found in Mexico, with robust transparency and accountability mechanisms, and in particular:

- (a) Guarantee the democratic nature of the designation of the new Attorney General through a competitive public process and the creation of an independent Designation Commission;
- (b) Create a Deputy Attorney General's office or other specialized internal office to investigate serious human rights violations, with legal powers and technical capacity to investigate both direct perpetrators and intellectual authors, including chains of command;
- (c) Adopt a Strategic Plan for Criminal Investigation for the new Attorney General's Office that includes techniques and tools to investigate in contexts of macrocriminality and illegal networks of powerful actors, taking into account input by institutions with expertise in these topics, including academia and civil society;
- (d) Install an interdisciplinary Context Analysis Unit to systematize the information that is currently fragmented among the country's different prosecutors' offices, allowing for the detection of patterns of serious human rights violations, connections between criminals and authorities, and types of participation in illegal networks, and thus leading to the investigation and prosecution of high-ranking perpetrators and the dismantling of macrocriminal networks;
- (e) Create, in compliance with outstanding recommendations by UN and inter-American human rights bodies, an Autonomous Forensic Institute to respond to the needs of investigators, prosecutors, public defenders, and any other institution that requires forensic services; in this way, forensic experts will cease to be subordinate to prosecutors.

5) Efficient Victim Attention System: Guarantee the proper implementation of the General Victims' Law and strengthen the National Victim Attention System, ensuring transparent and effective participation mechanisms for victims' collectives and civil society, in particular through the following actions: alignment of state legislation with the General Law within eight months of accepting UPR recommendations; creation of state victim attention commissions with adequate financial, human, and technical resources in all states within a year of accepting UPR recommendations; adoption of pending regulations; and the implementation of simple, flexible, professionalized, non-revictimized, and coordinated



procedures between the Executive Victim Attention Commission (CEAV), state commissions, and the institutions with which they collaborate.

6) International mechanism to promote implementation of UPR recommendations: Update the Human Rights Council on the implementation of UPR recommendations in an annual oral statement under Item 6 of the Council agenda, in order to identify areas in which the Council and its member States can provide technical assistance to facilitate the implementation of recommendations.

For more information or for questions about these recommendations:

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