



MEXICO

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 31ST SESSION OF THE UPR WORKING GROUP, OCTOBER-NOVEMBER 2018

FOLLOW-UP TO THE PREVIOUS REVIEW

During its second Universal Periodic Review (UPR) in 2013, Mexico received 176 recommendations from other States.¹ Of these, Mexico accepted 166 recommendations, partially accepted two and rejected eight recommendations.²

Public security

Mexico accepted a series of recommendations to ensure that law enforcement officials are adequately trained and equipped, and under civilian control.³ Other recommendations called on Mexico to ensure that human rights violations committed by the security forces are tried before civilian tribunals, and to restrict the jurisdiction of military courts.⁴ In response to these recommendations, Mexico has amended several laws accordingly (see below). Nonetheless, major challenges still remain to address impunity for human rights violations committed by the armed forces.

Criminal justice system

Mexico also accepted recommendations to improve the criminal justice system and implement the 2008 constitutional reform.⁵ In particular, it committed to tackle impunity for human rights violations, including enforced disappearances, torture and attacks on human rights defenders.⁶ However, disappointingly Mexico rejected recommendations to repeal *arraigo*⁷ detention (see also below).⁸ Mexico made some progress in the implementation of the new criminal procedure system, but important challenges remain to tackle impunity (see below).

Torture and other ill-treatment

¹ Human Rights Council, Report of the Working Group on the Universal Periodic Review – Mexico, A/HRC/25/7, 11 December 2013, paragraph 148.

² In its response, Mexico explicitly rejected four recommendations (paragraphs 148.6, 148.7, 148.48 and 148.114) and partially accepted two recommendations (paragraphs 148.4 and 148.5). Nevertheless, the State presented a text that, implicitly, rejected recommendations related to *arraigo* detention: 148.60 (Germany), 148.61 (Austria), 148.62 (Belgium), and 148.63 (Belgium). Human Rights Council, Report of the Working Group on the Universal Periodic Review – Mexico (addendum), A/HRC/25/7/Add.1, 17 March 2014.

³ A/HRC/25/7. Recommendations 148.97 (Poland), 148.98 (United States of America), and 148.101 (Viet Nam).

⁴ A/HRC/25/7. Recommendation 148.109 (Australia, Brazil, Canada, Czech Republic, France, Italy, Peru, Republic of Korea, and Sierra Leone).

⁵ A/HRC/25/7. Recommendations 148.13 (Ukraine), 148.93 (Canada), 148.94 (Denmark), 148.96 (Japan), 148.99 (Spain), and 148.100 (Turkey).

⁶ A/HRC/25/7. Recommendations 148.50 (Sweden), 148.51 (Portugal), and 148.95 (Azerbaijan).

⁷ *Arraigo* is a form of pre-charge detention that allows for deprivation of liberty for up to 80 days. This measure is granted by a judge, without charges being pressed and without any evidence being produced, to facilitate the investigation of an individual.

⁸ A/HRC/25/7. Recommendations 148.60 (France, Germany) and 148.62 (Belgium).

Mexico accepted seven recommendations to combat torture and other ill-treatment, including to improve the legal framework, to adopt a legal definition of torture fully aligned with international standards,⁹ and to diligently and properly investigate and, where appropriate, prosecute cases of alleged torture.¹⁰ In 2017 Mexico approved a general law on torture, however, it has failed to make substantial progress in investigating and prosecuting torture allegations.

Enforced disappearances

Several recommendations, accepted by Mexico, addressed the issue of enforced disappearances. Some recommendations asked Mexico to improve its legal framework to bring it into compliance with international law through, among other measures, implementing an appropriate definition for the crime of enforced disappearances,¹¹ which Mexico did in 2017 (see also below). Mexico accepted, but has failed to implement, recommendations aimed at improving investigations into alleged enforced disappearances¹² and a recommendation aimed at creating an official register of all cases of enforced disappearance.¹³ Several recommendations urged Mexico to recognize the competence of the Committee on Enforced Disappearances to receive individual communications.¹⁴ Mexico declared that it was conducting internal deliberations in this respect,¹⁵ however, to date, Mexico has not accepted such competence.

Human rights defenders and journalists

Mexico accepted 21 recommendations concerning the protection of human rights defenders and journalists, including to strengthen the federal Mechanism for the Protection of Human Rights Defenders and Journalists; to combat violence and harassment suffered by them; and to investigate and, where appropriate, prosecute, such attacks.¹⁶ Some improvements were registered in the Mechanism, but human rights defenders and journalists remain at risk and attacks against them tend to be inadequately investigated and remain in impunity (see also below).

THE NATIONAL HUMAN RIGHTS FRAMEWORK

In June 2014, a substantial reform to article 57 of the Military Justice Code entered into force restricting military jurisdiction in the investigation and adjudication of cases in which military personnel are accused of human rights violations. However, under the reformed text, when both the victim and the suspected perpetrator are members of the armed forces, military jurisdiction is permissible in the investigation and adjudication of the case. Based on this inadequacy in the law, the Inter-American Court of Human Rights ruled that Mexico has failed to fully comply with its order to align the military justice system with the requirements of international human rights law.¹⁷

⁹ A/HRC/25/7. Recommendations 148.20 (Hungary), 148.50 (Sweden) and 148.52 (Turkey).

¹⁰ A/HRC/25/7. Recommendations 148.49 (Sweden), 148.50 (Sweden), 148.51 (Portugal), 148.52 (Turkey) and 148.53 (Azerbaijan).

¹¹ A/HRC/25/7. Recommendations 148.5 (France), 148.15 (Chile), and 148.55 (Uzbekistan).

¹² A/HRC/25/7. Recommendation 148.54 (Iran (Islamic Republic of)) and 148.57 (Switzerland). See also recommendation 148.59 (Argentina, Spain).

¹³ A/HRC/25/7. Recommendation 148.5 (France).

¹⁴ A/HRC/25/7. Recommendation 148.5 (France, Spain, Uruguay).

¹⁵ A/HRC/25/7/Add.1 paragraph 10.

¹⁶ A/HRC/25/7. Recommendations 148.116 (Austria, Canada), 148.117 (Colombia), 148.18 (Netherlands), 148.119 (United Kingdom of Great Britain and Northern Ireland), 148.120 (United States of America), 148.121 (Australia), 148.122 (Norway), 148.123 (Belgium, Czech Republic, Germany, Hungary, Switzerland), 148.124 (Finland), 148.125 (France), 148.126 (Republic of Korea), 148.127 (Slovakia), 148.128 (Hungary), 148.129 (Sweden), 148.130 (Tunisia), 148.131 (Spain), 148.132 (Romania), 148.133 (Belgium), 148.134 (Japan), 148.135 (Lithuania), 148.136 (Slovenia), and 148.137 (Ireland).

¹⁷ I/A Court H.R., Cases of Radilla Pacheco, Fernández Ortega et al., and Rosendo Cantú and other v. Mexico. [Monitoring Compliance with Judgment](#). Order of the Inter-American Court of Human Rights of April 17, 2015.

In June 2016, a new National Code of Criminal Procedures that applies nationwide entered into force.¹⁸ The new Code operationalizes a 2008 constitutional reform that mandated the substitution of an inquisitorial system with an adversarial criminal justice system.¹⁹ The new Code includes rules aimed at preserving fair trial guarantees; however, its implementation has faced important challenges, including the lack of capacity-building among various justice sector personnel, such as investigative police or public prosecutors. In addition, various amendments to reduce safeguards for the respect of human rights during criminal investigations and trials are currently pending before Congress.

In June 2017, a general law on the prevention, investigation, and punishment of torture came into force,²⁰ replacing previous state and federal laws on this issue. This new law provides a definition of torture in line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In October 2017,²¹ Congress passed a general law on enforced disappearances and disappearances by non-state actors that defines the crime in accordance with international law and provides important tools to prevent and prosecute these crimes.

In December 2017, a bill on “Interior Security” was approved by Congress.²² The law increases the role of the armed forces in public security, despite constant reports of human rights violations committed by military personnel acting as law enforcement officials, especially since their increased deployment in 2006. The law does not provide for adequate civilian control over the armed forces, nor for their subordination to the command of civilian authorities while operating under the powers with which they are entrusted by this law. The law further authorizes the armed forces to police demonstrations, in contravention of the rights to freedom of peaceful assembly and expression.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Public security

For over a decade, Mexico has relied on the armed forces to undertake public security tasks around the country. The armed forces have been deployed in various operations, including patrolling specific locations and sometimes acting as regular law enforcement officials. On occasion, military officers have been appointed to head civilian security institutions (such as ministries of security or police institutions). In those instances, the military officers have had a conflicting responsibility to respond to both civilian and military commanders at the same time.

Armed forces personnel have been responsible for human rights violations, including torture and other ill-treatment, extrajudicial executions and enforced disappearances.²³ The armed forces have generally not been held accountable for human rights violations or crimes under international law. Although there are some cases in which its members have been brought to justice, this is usually more of an exception than a rule and most such cases go unpunished.

Criminal justice system

¹⁸ Mexico. [National Code of Criminal Procedure](#). Federal Official Gazette, 05 March 2014.

¹⁹ Mexico. [Decree amending and supplementing various provisions of the political constitution of the United Mexican States](#). Federal Official Gazette, 18 June 2008.

²⁰ Mexico. [General Law to Prevent, Investigate and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#). Federal Official Gazette, 26 June 2017.

²¹ Mexico. General [Law on Enforced Disappearance, Disappearances Committed by Individuals and the National System of Search for Persons](#). Federal Official Gazette, 17 November 2017.

²² Mexico. [Law of Interior Security](#). Federal Official Gazette, 21 December 2017.

²³ For instance, in the cases of: Claudia Medina, who was detained and tortured by marines in 2012. Amnesty International. [Out of control: Torture and other ill-treatment in Mexico](#), 4 September 2014 (Index: AMR 41/020/2014). The extrajudicial execution by a soldier of a man who was lying face down on the ground and who posed no threat, in Palmarito Puebla in 2007. Amnesty International. [Open letter to the President of Mexico](#), 25 May 2017 (Index: AMR 41/6347/2017). Armando del Bosque Villarreal, a man who was found dead weeks after he was subjected to enforced disappearance in 2013 by marines. Amnesty International. [Urgent Action: body of disappeared man found in Mexico](#). 4 December 2013 (Index: AMR 41/076/2013).

While reforms introduced in the criminal justice system could have a positive impact on respect for and protection of human rights, the new criminal justice system retains some of the problems of the previous system. *Arraigo* detention²⁴ still allows for persons to be held and investigated without charge, and judges are still obliged to remand those suspected of committing certain offences in mandatory pre-trial detention,²⁵ denying them the opportunity to assess the facts of the case and determine if the measure is necessary and proportionate.

Arbitrary arrest and detention are widespread in Mexico. Amnesty International has documented how arbitrary detention enables other human rights violations, including torture and enforced disappearances. Young men living in poverty, who have historically faced discrimination, are especially targeted by the police.²⁶

Law enforcement officials often do not inform persons of the reasons for their arrest or of their rights, such as the right to legal counsel. Police reports of arrests often contain significant errors, fabricated information and other serious flaws, including inaccuracies in recording the date and time of arrest. These flawed procedures risk facilitating the planting of evidence, such as guns or illicit drugs. There is no unified and accessible register of detention, consistent with international human rights law and standards,²⁷ in which every detention by law enforcement officials is recorded in real time. Significant obstacles remain to adequately train law enforcement officials, including on the use of force and firearms, and to provide them with acceptable conditions to carry out their work, such as adequate material resources and sufficient wages.

Amnesty International has received testimonies of judges claiming that in some cases, especially prominent ones, they are subject to pressure with respect to the outcome of the trial. Such pressure ranges from subtle hints to direct orders from senior state officials. If judges do not yield to political pressure, they may face reprisals.²⁸

Torture and other ill-treatment

Torture and other ill-treatment are widespread in Mexico. In 2017, the Special Unit on Torture of the Federal Attorney General's Office reported 4,390 cases of torture under review at the federal level and commenced 777 new investigations under the new adversarial justice system. The federal authorities did not announce new criminal charges against or arrests of public officials for the crime of torture.²⁹

Torture and other ill-treatment still play a central role in policing and public security operations both by the armed forces and the police. Evidence obtained through torture is still being used in criminal prosecutions. Reports of torture and other ill-treatment went up following the government's decision in 2006 to increase the deployment of the armed forces to combat organized crime. By the end of 2013, complaints of torture and other ill-treatment before the National Human Rights Commission were 600% higher that year when compared to 2003. A survey commissioned by Amnesty International on attitudes to torture revealed that 64% of Mexicans polled feared suffering torture if taken into custody.³⁰

Amnesty International has documented routine torture and other ill-treatment against women, including sexual violence, during arrest and interrogation by armed forces and police. Women are often detained during group arrests and accused of being the girlfriend of a criminal and accomplice to a criminal act, without solid evidence to support such allegations.³¹

²⁴ See footnote 7.

²⁵ Organized crime, intentional homicide, rape, abductions, human trafficking, crimes involving violence such as the use of weapons and explosives, as well as serious offences, as determined by law, against national security, and the free development of the personality and health. [Mexico. Political Constitution of the United Mexican States](#), art. 19.

²⁶ Amnesty International. [False Suspicions: arbitrary detentions by police in Mexico](#), 13 July 2017, (Index number: AMR 41/5340/2017).

²⁷ As required by Article 17 of the International Convention for the Protection of All Persons from Enforced Disappearance.

²⁸ Amnesty International. [False Suspicions: arbitrary detentions by police in Mexico](#), 13 July 2017, (Index number: AMR 41/5340/2017).

²⁹ Amnesty International. [Report 2017/08: the state of the world's human rights: Mexico](#), 22 February 2018 (Index: POL 10/6700/2018).

³⁰ Amnesty International. [Out of control: Torture and other ill-treatment in Mexico](#), 4 September 2014 (Index: AMR 41/020/2014).

³¹ Amnesty International. [Surviving death: police and military torture of women in Mexico](#), 28 June 2016 (Index: AMR 41/4237/2016).

Enforced disappearance

Enforced disappearances with the involvement of State agents and disappearances by non-state actors continue to occur throughout Mexico. The fate or whereabouts of 35,410 people (26,422 men and 8,988 women) remains unknown, according to the National Register of Missing and Disappeared Persons. The real numbers could be higher because official figures exclude federal cases from before 2014 and cases classified under certain criminal offences, such as hostage-taking or human trafficking.³²

The authorities have not undertaken a thorough search for the disappeared and have failed to carry out prompt investigations, bring those responsible to justice and ensure comprehensive and appropriate reparations for the victims. Searches for victims of enforced disappearance are flawed and delayed. The relatives of those disappeared often face obstacles to being informed about the investigation of the cases. In most cases, the investigations do not appear to be aimed at uncovering the truth about the case, but seem to be destined from the outset to lead nowhere.³³ Mexico has not adequately implemented a series of recommendations by the Interdisciplinary Group of Independent Experts (GIEI) appointed by the Inter-American Commission on Human Rights to follow up on the investigation and search surrounding the enforced disappearance of 43 students in Ayotzinapa.³⁴

A new general law on disappearances, passed by Congress in October 2017, could be an important step towards addressing this issue, but its implementation will require allocation of sufficient resources.

Refugees and asylum-seekers

The situation of refugees and asylum-seekers has changed considerably as a result of the unfolding refugee crises in El Salvador, Guatemala, and Honduras. In 2017, Mexico received 14,596 asylum claims, up from 1,296 claims in 2013. The increase is mostly linked to the situation of extreme violence in those three countries.

Amnesty International is concerned that the principle of *non-refoulement* is routinely violated in Mexico and that the National Institute of Migration (INM) frequently fails to adequately inform individuals who entered the country irregularly of their right to seek asylum in Mexico.³⁵ This occurs despite Mexican law obliging INM officials to detect foreigners that can be presumed to be possible asylum-seekers. Mexico deports the vast majority of individuals who enter the country irregularly each year, despite estimates from UNHCR and other international organizations pointing to the possibility that as many as half of these could be in need of protection. In addition, Amnesty International is concerned by testimonies that asylum-seekers are pressured to sign deportation papers, despite expressing their fear of a real risk of persecution or other serious human rights violations if returned to their country of origin.

Human rights defenders and journalists

Human rights defenders and journalists in Mexico are often threatened, harassed, attacked and even killed.³⁶ Impunity persists for most cases as allegations of harassment and other attacks are not properly investigated, thus allowing the repetition of these attacks and leaving human rights defenders and journalists at risk.

³² Amnesty International. [Report 2017/08: the state of the world's human rights: Mexico](#), 22 February 2018 (Index: POL 10/6700/2018).

³³ Amnesty International. [Treated with indolence: The state's response to disappearances in Mexico](#). January 2016 (Index: AMR 41/3150/2016).

³⁴ The International Group of Independent Experts (GIEI) was appointed by the Inter-American Commission on Human Rights to monitor the case of the 43 students of Ayotzinapa teacher training college, who have been subjected to enforced disappearance since September 2014. The group presented its final [report](#) in April 2016. In March 2018, the Office of the United Nations High Commissioner for Human Rights published: [Double Injustice: report on human rights violations in the investigation of the Ayotzinapa case](#). The report concluded that at least 34 persons criminally charged for the facts of the case had suffered torture and other ill-treatment after being arbitrarily arrested, that there was tampering with evidence and that an official investigation into these flaws was obstructed.

³⁵ Amnesty International's research found 120 testimonies that gave solid indications that *refoulement* had occurred. Amnesty International, [Overlooked and Under protected: Mexico's Deadly Refoulement of Central Americans seeking asylum](#), January 2018, (Index: AMR 41/7602/2018).

³⁶ From 2014 to 2017, 35 journalists and media workers were killed in Mexico, according to figures published by [Article19](#).

In 2012, Mexico established a federal Mechanism for the Protection of Human Rights Defenders and Journalists. However, the Mechanism lacks a comprehensive public policy to coordinate protection measures at all levels of government, including with similar state-level mechanisms³⁷ and relevant federal agencies, such as the Executive Commission for Attention to Victims. The Mechanism reported 370 requests for protection between 2013 and 2017 on behalf of journalists and 257 requests from human rights defenders. To date, it has provided protection to 630 individuals.³⁸

The Mechanism has taken important steps to improve its effectiveness, including establishing a special unit on prevention, monitoring and analysis, and providing training for its personnel, as well as committing to evaluate the protection measures provided. However, several challenges remain, including poor implementation of protection measures, undue delays in the assessment of the risk situation of defenders and journalists, the adoption of measures that do not respond adequately to the risk situation,³⁹ and slow responses to urgent incidents. In addition, the Mechanism has failed in combatting other attacks against defenders, such as stigmatization and criminalization.

Journalists and human rights defenders have been subjected to unlawful surveillance using software known to have been purchased by the government.⁴⁰ The government has provided no response to digital attacks and unlawful surveillance, not even for those human rights defenders and journalists who have been granted protection measures by the Mechanism.

³⁷ Similar mechanisms have been created at the state level, however some of them face challenges in relation to the financial and human resources available. There are still problems to achieve proper coordination among different authorities operating at different locations and institutions.

³⁸ Mexico. Ministry of Interior. [Statistical Report December 2017. Mechanism for the Protection of Human Rights Defenders and Journalists](#).

³⁹ For instance, some of the adopted protective measures do not take into account the local context in which the defenders work, or fail to incorporate preventive, collective and gender-based approaches.

⁴⁰ See [Preliminary Observations by the UN Special Rapporteur on freedom of expression and the Special Rapporteur on freedom of expression of the IACHR following their joint visit to Mexico](#), 27 November – 4 December 2017, paragraph 45.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Mexico to:

Public security

- End the role of the armed forces in public security, including detention, investigation and interrogation, for which they are not trained nor accountable;
- Repeal the Law on Interior Security and ensure that public security laws, practices and regulations comply with international human rights law and standards;
- Amend the Code of Military Justice to ensure that all allegations of human rights violations committed by members of the armed forces, irrespective of the civilian or military character of the victim, are properly investigated, prosecuted and tried exclusively by civilian judicial authorities.

Criminal justice system

- Guarantee, in law and in practice, the independence and impartiality of the judiciary, ensuring that judges are free from any interference, pressure or undue influence in the exercise of their functions;
- Establish clear regulations for all police forces on the use of force and firearms and ensure they receive appropriate and ongoing training and assessment on their use;
- Establish clear regulations regarding arrest and detention procedures, and guarantee that all police forces comply with them;
- Repeal provisions in the Constitution and in laws that provide for mandatory pre-trial detention and *arraigo* detention;
- Establish a unified, nationwide and consistent register of arrests, in line with international human rights law, aimed at decreasing arbitrary arrest and detention.

Torture and other ill-treatment

- Ensure adequate implementation of the new general law on torture and related legislation, including the exclusion in court of all evidence obtained, directly or indirectly, through torture or other ill-treatment;
- Immediately launch prompt, thorough, independent and impartial investigations into allegations of torture and other ill-treatment, and bring those responsible to justice;
- Suspend all agents, regardless of rank, suspected of being involved in acts of torture or other ill-treatment, pending the results of the investigation.

Enforced disappearance

- Conduct prompt, thorough, independent and impartial investigations into all cases of enforced disappearance and disappearance committed by non-state actors and, where appropriate, bring those responsible to justice in trials that meet international fair trial standards, regardless of who the alleged perpetrator might be;
- Acknowledge and allow the participation of relatives of disappeared persons in the investigations, providing them with up-to-date and accurate information on progress, and ensure that they are allowed to provide information, suggest lines of inquiry and ask for evidence;
- Adequately implement the recommendations of the Interdisciplinary Group of Independent Experts of the Inter-American Commission on Human Rights.

Refugees and asylum seekers

- Ensure that all individuals who enter the country irregularly, including those who are apprehended and detained, are informed of their right to seek asylum in Mexico and allowed to present an asylum claim if they wish to do so;
- Investigate all reports of practices violating the rights of migrants and refugees, including *refoulement*, and,

when confirmed, ensure they are met with administrative sanction.

Human rights defenders and journalists

- Strengthen the Mechanism for the Protection of Human Rights Defenders and Journalists, ensuring that it is provided with sufficient resources and appropriate coordination among different authorities at all levels of government.