

**DIAGNOSIS OF THE  
SITUATION OF HUMAN  
RIGHTS IN MEXICO AND  
RECOMMENDATIONS  
ISSUED TO THE  
MEXICAN STATE AND  
THE EUROPEAN UNION**

**DOCUMENT ELABORATED IN THE  
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## Introduction

The objective of this document is to take stock of the existing challenges to the respect for and promotion of human rights in Mexico, as well as to present specific recommendations from civil society organizations which we hope the Mexican State and the Member States of the European Union can adopt.

The current context is key. The conclusion of negotiations of a new European Union-Mexico Global Agreement has been announced, which gives rise to a new stage in the bilateral relationship, one in which human rights and civil society participation are essential parts of strategic partnership processes. Furthermore, the post-pandemic situation forces us to rethink structural responses not only for reconstruction but also for consolidating the rule of law, democracy and respect for human rights.

### 1. Rule of Law

Concerns regarding the rule of law in Mexico are reflected in the persistent crisis of human rights, which we will refer to especially on the question of disappearance, alongside obstacles to access to justice that maintain significant levels of impunity, and the continuity of a militarized strategy, topics which we will later address.

#### 1.a Disappearance of persons

According to the latest figures from the National Registry of Missing or Disappeared Persons, as of December 31<sup>st</sup>, 2019 there are 61,637 people "missing or not located" people, of whom 15,853 are women and 11,072 children and adolescents<sup>1</sup>. 97% of these disappearances occurred between 2006 and 2019; that is, against a background of the militarization of public security<sup>2</sup>. In the 13 months of the López Obrador administration, 9,164 cases were recorded, which shows the problem persists. The inconsistencies and lack of information provided by the authorities are a matter of concern<sup>3</sup> – the UN Committee on Enforced Disappearances and the Human Rights Committee expressed their concern at the generalization of disappearances and persistent impunity<sup>4</sup>.

1 Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública (2020). Registro Nacional de Datos de Personas Extraviadas o Desaparecidas (RNPED). Available at: <https://rnped.segob.gob.mx/>

2 Comisión Nacional de Búsqueda (2020). Informe sobre fosas clandestinas y registro nacional de personas desaparecidas o no localizadas, 6 de enero de 2020. Available at: <https://bit.ly/3dTqrkZ>

3 The National Search Commission (CNB) indicated that these figures can vary, as the Attorney General of the Republic and twenty State Prosecutors have not updated the historical register or submitted information..

4 In November 2018, the UN Committee against Enforced Disappearances stated in its concluding observations to the Mexican State that it “deeply regrets that a situation of widespread disappearances continues in much of the State party's territory and that impunity and revictimization prevail.” UN Committee against Enforced Observaciones finales y de seguimiento del Comité sobre México, CED/C/MEX/FU/1, November 19th 2018. Available at: [https://www.hchr.org.mx/images/CED\\_C\\_MEX\\_FU\\_1\\_33066\\_S.pdf](https://www.hchr.org.mx/images/CED_C_MEX_FU_1_33066_S.pdf), párrafo 3.

The concern was also highlighted by the UN Human Rights Committee, which examined Mexico's sixth periodic report (CCPR/C/MEX/6) in its 3653<sup>a</sup> y 3654<sup>a</sup> sessions (CCPR/C/SR.3653 y 3654), held on the 16<sup>th</sup> and 17<sup>th</sup> of October, 2019, [https://www.hchr.org.mx/index.php?option=com\\_k2&view=item&id=1336:comite-de-derechos-humanos-observaciones-finales-sobre-el-sexto-informe-periodico-de-mexico&Itemid=282](https://www.hchr.org.mx/index.php?option=com_k2&view=item&id=1336:comite-de-derechos-humanos-observaciones-finales-sobre-el-sexto-informe-periodico-de-mexico&Itemid=282)

In addition, in August 2019, in a historic decision, the United Nations Human Rights Committee stated for the first time the responsibility of Mexico for the crime of enforced disappearance, Case of Christian Tellez Padilla. Opinion approved by the Committee pursuant to article 5, paragraph 4, of the Optional Protocol, regarding communication no. 2750/2016: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f126%2fd%2f2750%2f2016&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f126%2fd%2f2750%2f2016&Lang=en)

Despite the General Law on Disappearance of Persons coming into force (November, 2017), and with it the creation of the Specialized Prosecutor's Office (February, 2018) and the National Search Commission (April, 2018), no changes have yet been observed in practices regarding the prevention, investigation, punishment and comprehensive reparation of these crimes. The resistance of state governments is of particular concern; so far, 17 states have not yet harmonized their local regulatory framework with these requirements. In a recent event, Alejandro Encinas, Undersecretary of Human Rights of the SEGOB, said that there is "resistance" on the part of the state prosecutors' offices.

The government has acknowledged the backlog of more than 37,000 bodies awaiting identification in forensic services and the location of 3,631 clandestine graves between 2006 and 2019<sup>6</sup>. Forensic services are overwhelmed, lacking the human, economic, and technical resources necessary to identify the accumulated bodies and those that arrive daily. In many cases, bad practice and undignified treatment of families persist in the process of handing over bodies or remains.

On March 19th, the Agreement establishing the Extraordinary Mechanism for Forensic Identification was published, which is still in the process of being implemented, under a process that has been slower than expected, revealing a disparate political will on the part of the institutions involved.

In addition, investigations reveal the existence of problems that existed prior to the COVID-19 public health crisis, derived from the social divide that prevails in Mexico<sup>7</sup>, as well as the failure of the Mexican State to fulfil its obligation to promote, respect, protect and guarantee the rights of the victims recognised in the General Law on Victims. These problems, coupled with the absence of urgent measures of containment to address and prevent their effects on the families of missing persons, are exacerbated in the context of the COVID-19 pandemic, disproportionately affecting their economic, social and cultural rights, as well as their rights to truth and access to justice.

5 Monroy, Jorge (2020) "Encinas acusa resistencias por parte de gobiernos estatales para enfrentar desaparición de personas" *El Economista*. June 10th. Available at: <https://www.economista.com.mx/politica/Encinas-acusa-resistencias-por-parte-de-gobiernos-estatales-para-enfrentar-desaparicion-de-personas-20200610-0073.html>. Incluso refirió: "el solo hecho de hacer público el número de desapariciones, de fosas clandestinas, de cuerpos exhumados que hemos venido desarrollando en los últimos meses, ha ocasionado reclamos de los gobiernos de los estados que siguen en una lógica de querer minimizar u ocultar el problema."

6 Comisión Nacional de Búsqueda (2020). Informe sobre fosas clandestinas y registro nacional de personas desaparecidas o no localizadas, 6 de enero de 2020. Available at: <https://bit.ly/3dTqrkZ>

7 IDHEAS, FIDH, Observatorio Ciudadano de Derechos de las Víctimas (2020) Efectos de la pandemia por COVID-19 sobre los derechos humanos de las y los familiares de personas desaparecidas y/o localizadas sin vida y la respuesta del Estado mexicano. Available at: <https://www.idheas.org.mx/publicaciones-idheas/publicaciones-idheas-litigio-estrategico/efectos-de-la-pandemia-de-covid-19-en-el-disfrute-de-los-derechos-humanos-de-las-y-los-familiares-de-personas-desaparecidas-y-o-localizadas-sin-vida-y-la-respuesta-del-estado-mexicano/>

## Recommendations

- Mexico: (i) Ensure the proper implementation of the General Law on Disappearance of Persons at the federal level and its harmonization in the states, including the creation of the registers and data bases that are required by law, in order to integrate all collected data into a single system fed by information by authorities at all levels at the federal, state and municipal levels; (ii) Speed up the implementation of the Extraordinary Mechanism for Forensic Identification; (iii) Acknowledge the binding nature of international resolutions and ensure its effective implementation, particularly the Urgent Actions issued by the CED Committee and the resolutions issued by the UN Human Rights Committee, as well as to take immediate steps to permit the CED Committee to receive individual petitions and to schedule its first visit to Mexico; (iv) Strengthen the Career Service for prosecutors involved in the investigation of cases of enforced disappearances.
- European Union: Agree with the Mexican government on the implementation of technical and financial cooperation projects to address the forensic crisis and to implement the Special Mechanism for Forensic Identification, as well as to follow up on the implementation of the General Law.

### 1.b Impunity, access to justice and transparency

Impunity is one of the greatest concerns for human rights in Mexico, which has unfortunately maintained the past inertia that perpetuates violence and human rights violations, impacting sectors differentially according to their vulnerability or social and economic inequality.

With regard to forced disappearances and disappearances committed by individuals, the challenges in the investigations (characterized by the failure to conduct a context analysis, to investigate hierarchical superiors, alongside lack of due diligence in managing remains)<sup>9</sup>, have prevented access to truth and justice for victims. Between 2006 and 2018, 19 cases were brought to trial at the federal level which resulted in only 31 convictions<sup>10</sup>, while only 28 sentences were reported in the ordinary courts<sup>11</sup>. Despite the widespread prevalence of torture in Mexico, only 36 federal judgements are reported in this question from 2013 to 2018.

In the Universal Periodic Review, it was reported that out of 5,824 crimes committed against migrants, only 0.84% of the cases have resulted in sentencing. Alongside this, femicide and crimes against women are increasing<sup>12</sup>, but due diligence is not maintained, adequate budgets are not made available, and a gender perspective is not mainstreamed in investigations and

8 As the UN Committee for Human Rights, which examined Mexico's Sixth Periodic Report, pointed out (CCPR/C/MEX/6) in its 3653<sup>a</sup> y 3654<sup>a</sup> sessions (CCPR/C/SR.3653 y 3654), held on the 16<sup>th</sup> and 17<sup>th</sup> of October, 2019.

[https://www.hchr.org.mx/index.php?option=com\\_k2&view=item&id=1336:comite-de-derechos-humanos-observaciones-finales-sobre-el-sexto-informe-periodico-de-mexico&Itemid=282](https://www.hchr.org.mx/index.php?option=com_k2&view=item&id=1336:comite-de-derechos-humanos-observaciones-finales-sobre-el-sexto-informe-periodico-de-mexico&Itemid=282)

9 For more information, see Centro Prodh (2019) Patrones de impunidad. Deficiencias en la investigación de violaciones a derechos humanos y alternativas en el poder judicial. Available at: <https://centroprodh.org.mx/2019/07/29/6595/>

10 In this regard, the AG of the Republic(FGR) siad he had initiated, 1,144 penal investigations at federal level for these crimes between 2006 and 2018. In 2019, only four cases were tried (0.29%) and none was sentenced.

11 IDHEAS y FIDH (2020) Situación de impunidad en México: Llamamos al Estado Mexicano a reconocer la existencia de crímenes de lesa humanidad y remitir la situación de México a la Corte Penal Institucional. Available at: <https://www.idheas.org.mx/publicaciones-idheas/publicaciones-idheas-litigio-estrategico/situacion-de-impunidad-en-mexico/>

12 Para más información consultar: Ortiz, Alexis (2020) 2019, el año con más mujeres víctimas en México, 3 de febrero, *El Universal*. Available at: <https://www.eluniversal.com.mx/nacion/2019-el-ano-con-mas-mujeres-victimas-en-mexico>

ensuring sanctions. In such a context, reductions of the already limited resources allocated to justice is a matter of concern<sup>13</sup>.

In addition, there are still challenges for the criminal justice system, including numerous cases of arbitrary detention and fabrication of evidence. This occurs alongside reforms that violate human rights, such as one that expands the list of crimes that warrant informal pretrial detention – applied automatically, rather than according to a judge's analysis of each case – which encourages arbitrary detention and deficient investigations, especially of people living in poverty.

There are still many obstacles that prevent the full access of victims of crimes and human rights violations to their rights under the General Law on Victims, which has been in force since January, 2013. Among other aspects that contribute to this crisis, one can point out the absence of a comprehensive policy for the care of victims, the lack of articulation and coordination among the institutions that make up the National System for the Care of Victims (SNAV), as well as the slow and deficient implementation of the Law in the states, particularly due to the scarcity of financial, human and technical resources of the local commissions for the care of victims<sup>14</sup>.

Discriminatory practices in the justice system significantly impede access to justice, especially for people whose rights have historically been violated. Throughout the pandemic, this situation has intensified: judicial authorities announced that they would only attend to cases they considered urgent. These measures were poorly executed: they did not inform all people involved in an accessible way what would be entailed by the suspensions of services of the justice system, and, moreover, the transparency and security of the oral hearings that would occur is currently unclear.

The right to access information was affected by the measures established during the health contingency:

1. Not all agreements established clear routes, for example, it was not specified if the administrative functions were temporarily suspended or not.
2. There were no further specifications indicating if the respective transparency units would suspend labors or if they would continue to work remotely, and
3. It was not clear if the suspension of closing dates and terms included time limits to answer requests regarding the right to access information. In addition, from the agreements it is clear that at least 22 Judicial Powers restricted the hearings' publicity, which meant no possibility for citizens to review the judges' conduct and work during the health crisis<sup>15</sup>.

<sup>13</sup>The FGR presented a reduction of 1,500 million pesos in the budget for the year 2020. The Office of the Special Prosecutor for Investigation of Crimes of Enforced Disappearance has only a budget of 0.11% of the total of the FGR and the Specialized Unit for Investigation of Torture Crime has just 0.005% of the FGR's total budget. This means that it has 158 pesos for each torture investigation file.

<sup>14</sup> Seven federal states still do not have a State Commission for Attention to Victims (Comisión Estatal de Atención Integral a Víctimas): Aguascalientes, Baja California, Baja California Sur, Guanajuato, Hidalgo, Oaxaca and Sonora.

<sup>15</sup> For more information: Equis (2020) (Des)protección judicial en tiempos de COVID 19. Available at: [https://equis.org.mx/wp-content/uploads/2020/03/DESProteccion\\_Informe.pdf](https://equis.org.mx/wp-content/uploads/2020/03/DESProteccion_Informe.pdf)

In addition to the above mentioned, until June 22nd, 2020, there were at least 757 infections and 114 deaths caused by COVID-19 registered within the penitentiary system in Mexico<sup>16</sup>. The environment of confinement, overcrowding, lack of adequate ventilation, and the difficulty or impossibility of implementing adequate measures of social distance, hygiene, and cleanliness, among others, are factors that significantly increase the risk of virus outbreaks among inmates: unfortunately, there are positive cases of COVID-19 in prisons all over the country<sup>17</sup>. In this context, it is essential that authorities maximize the application of alternative means such as alternative precautionary measures and pre-releases to depressurize the penitentiary system as soon as possible, as is recommended by various international organizations, including the IACHR<sup>18</sup>.

Although the National Law of Criminal Proceedings already contemplates some measures of procedural benefits, and later the so-called "Amnesty Law"<sup>19</sup> was published in order to accelerate the review of cases that could advance releases in very specific cases<sup>20</sup>, the Commission in charge of these evaluations was only created on June 23rd, 2020. As of that date, 2,487 amnesty petitions have already been requested, practically all of them coming from common jurisdiction<sup>21</sup>, which shows the urgency in which states need to address their role in this process and to speed up their work considering the pandemic context.

On the other hand, there is great concern about decisions made by the current government, which may jeopardize the balance of powers and contribute to the weakening and loss of several institutions' autonomy, in particular, those responsible for the promotion and protection of human rights. As examples, the appointment of Alejandro Gertz who was AMLO's adviser in his last campaign as the General Attorney, Rosario Piedra Ibarra, recently assigned as president of the National Commission of Human Rights, while being an active militant of Morena (the President's party), as well as Yasmín Esquivel wife of the former adviser and contractor of the President when he was the head of Mexico City government. Finally, there is consternation about budget cuts made without clear diagnoses or evaluations in a particular way, sometimes only the Executive decision being enough to do so, such as the so-called "austerity measures", which, although they should not apply to human rights institutions, do impact other key institutions and by doing so indirectly affect the enjoyment of human rights, as an example the cut of 30% of the budget for Security and Citizen Protection.

## **Recommendations:**

<sup>16</sup> Asilegal (2020) ¿Qué está sucediendo en los centros penitenciarios ante el COVID-19? Disponible en: <https://asilegal.org.mx/mapa-penitenciario-covid-19/>. Estas cifras incluyen a 661 personas privadas de libertad contagiadas y 87 fallecidas, así como a 96 custodias/os y personal penitenciario contagiadas y 27 fallecidas.

<sup>17</sup> *Idem*.

<sup>18</sup> Who have insisted on looking for alternatives to prison. Comisión Interamericana de Derechos Humanos, *Resolución No. 01/20. Pandemia y Derechos Humanos en las Américas*, Washington, OEA-CIDH, 2020, pp. 16 y 17. Available at: <https://www.oas.org/es/cidh/decisiones/pdf/Resolucion-1-20-es.pdf>

Para más información consultar, Centro Prodh (2020) Personas privadas de libertad frente al COVID-19, 20 de abril, *Animal Político*. Available at: <https://www.animalpolitico.com/la-lucha-cotidiana-de-los-derechos-humanos/personas-privadas-de-libertad-frente-al-covid-19/>

<sup>19</sup> Published in *Diario Oficial de la Federación* el 22 de abril de 2020.

<sup>20</sup> Only at federal level and it will be applied to indigenous persons, women who have been imprisoned for abortion, offenses such as sedition, among other specific cases.

<sup>21</sup> 56 were federal—which is the scope of application of the law—, 2,016 common jurisdiction, 496 unidentified, and nine had been freed. Boletín No. 203/2020 de la Secretaría de Gobernación del Gobierno de México, June 23rd, 2020. Available at : <https://www.gob.mx/segob/prensa/cumple-secretaria-de-gobernacion-mandato-establecido-en-ley-de-ammistia-instala-y-sesiona-comision-que-recibira-solicitudes>

- Mexico: (i) Strengthen the investigative capacity and independence of all the actors involved in investigation tasks, especially the Prosecutor's Offices and their experts by receiving technical assistance regarding cases of serious violations and to strengthen the accusatory criminal system, as well as promoting the right to transparency by the Judicial Powers; (ii) Acknowledge the existence of crimes against humanity and refer the situation to the International Criminal Court (ICC); (iii) Consolidate the assistance of violations victims of crimes and human rights violations as a genuine State policy, ensuring not only financial, human and technical resources for the proper functioning of the Executive Commission of Attention to Victims (CEAV) and its equivalent at the local level, but also the operation of the National System for Attention to Victims; (iv) Adopt a national mechanism for the follow-up and compliance with international resolutions on human rights.
- European Union: Provide technical and financial assistance to the federal government and federal entities to help strengthen mechanisms for prevention, the accompaniment of victims, investigation, sanction, and full compliance with the reparation of human rights violations.

### 1. c Militarization

Despite all the evidence that shows that militarization policies have not diminished violence<sup>22</sup> in Mexico but rather increased human rights violations<sup>23</sup>, and even though there are plenty of international recommendations that encourage Mexico to carry out a programmed withdrawal plan for armed forces engaged in public security tasks<sup>24</sup>, the national security strategy continues to opt for a model that deepens militarization and the use of force, instead of focusing on strengthening civilian police.

On March the 26th, 2019, as part of the security strategy, the constitutional reform to create the National Guard was published and later on May 27th, the secondary laws were also published. Despite the fact that the laws established that the National Guard would be a civilian body, serious concerns persist, especially regarding its integration with members of the Naval and Military Police, as well as having military training and providing that some command posts may only be filled by army members<sup>25</sup>. In addition, a significant deployment of members of

<sup>22</sup> The number of homicides has actually increased and serious violations have worsened, such that 2019 was registered as the most violent year, according to the report of Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública (SNSP), with 34,000 homicides registered. Available at: <https://www.gob.mx/sesnsp/articulos/informacion-sobre-violencia-contra-las-mujeres-incidencia-delictiva-y-llamadas-de-emergencia-9-1-1-febrero-2019>

<sup>23</sup> The CNDH received 32 complaints against the National Guard. Comisión Nacional de los Derechos Humanos (2020). Respuesta de solicitud de transparencia. Available at: <https://www.animalpolitico.com/wp-content/uploads/2020/01/3510000132819.pdf>

<sup>24</sup> OACNUDH (2015) Recomendaciones posteriores a la visita al país del Alto Comisionado de Naciones Unidas para los Derechos humanos. Available at: [https://www.hchr.org.mx/index.php?option=com\\_content&view=article&id=587:recomendaciones-a-mexico-del-alto-comisionado-de-la-onu-para-los-derechos-humanos-sr-zeid-zeid-ra-ad-al-hussein-y-respuesta-del-estado-mexicano&catid=17&Itemid=278](https://www.hchr.org.mx/index.php?option=com_content&view=article&id=587:recomendaciones-a-mexico-del-alto-comisionado-de-la-onu-para-los-derechos-humanos-sr-zeid-zeid-ra-ad-al-hussein-y-respuesta-del-estado-mexicano&catid=17&Itemid=278)

Comisión Interamericana de Derechos Humanos (2015). Informe de país: Situación de los derechos humanos en México. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Mexico2016-es.p>

<sup>25</sup> The National Guard Law establishes that for command posts (such as Coordination), 30 years of service in the institution is required. Considering that the Federal Police is less than 20 years old, many of these posts would only be accessible to the Armed Forces.

the National Guard has been observed in migration control tasks at the borders, which has caused various human rights violations and attacks<sup>26</sup>.

Furthermore, on May 11th, 2020, the Executive issued the agreement which endorses the Armed Forces to permanently engage in public security tasks, based on the fifth transitional of the constitutional reform and starting from now until the year 2024. In spite of the apparently good regulations that the law establishes such as a duty to evaluate, regulate and control the participation of military armed forces and prescribing their involvement as subordinate and complementary<sup>27</sup>. Far from giving content to its own principles, in many cases the law violates them<sup>28</sup>. The law does not contain specific limitations to their participation, for example: in which particular cases, crimes, situations, or territories their involvement could be justified. In addition, it establishes that the military commanders will "coordinate" with the civil authorities, without being under their supervision and control but it is far from creating independent and external control mechanisms in charge of the supervision, instead it trusts on the internal organs of military control.

Regarding subsequent legislation, the National Law on the Use of Force and the National Law on the Registry of Detentions, incorporate relevant elements but once again they face challenges in their application and shows some deficiencies that were even the subject of a challenge by the National Commission of Human Rights especially in relation to lethal force and the use of force at demonstrations, as well as the absence of controls regarding the National Law on the Use of Force, or the requirement that Armed Forces integrate the Registry.

In the context of a pandemic, some states have issued restrictions on rights and sanctions for non-compliance with sanitary measures (such as Jalisco, Coahuila, Michoacán or Querétaro), privileging a coercive perspective over sanitary measures which can become very dangerous under circumstances of inadequate regulation or implementation of the legislation (such as the use of force and control of arrests) this in addition to the absence of adequate mechanisms of control for security forces<sup>29</sup>, resulting in human rights abuses and violations, particularly for groups in situations of vulnerability or poverty; An example of this is the murder of Giovanni López by the Jalisco municipal police, allegedly detained for not wearing a mask<sup>30</sup>.

### **Recommendations:**

- Mexico: Establish adequate internal and external controls to supervise the performance of the National Guard, as well as other security elements that carry out public security tasks; to establish a plan in order to strengthen the civilian police with a view to withdrawing the armed forces from public security tasks.

<sup>26</sup> The CNDH registered at least 32 complaints for alleged violations of human rights by the National Guard in 2019, in the first five months in operation. For more information, see: Redacción Animal Político (2020) CNDH registra 32 quejas contra Guardia Nacional por presuntas violaciones de derechos. 9 de enero, *Animal Político*. Available at:

<https://www.animalpolitico.com/2020/01/cndh-guardia-nacional-quejas-violaciones-derechos/>

<sup>27</sup> Principles which limit the actions of the Armed Forces in accordance with international standards, in particular, the sentence of the ICHR in the case of *Alvarado Espinoza y otros vs. México*, 2018

<sup>28</sup> UNHCHR Mexico (2020) Preocupa a la ONU-DH Acuerdo que dispone de las Fuerzas Armadas para tareas de seguridad pública, 13 de mayo. Available at:

[https://www.hchr.org.mx/index.php?option=com\\_k2&view=item&id=1446:preocupa-a-la-onu-dh-acuerdo-que-dispone-de-las-fuerzas-armadas-para-tareas-de-seguridad-publica&Itemid=265](https://www.hchr.org.mx/index.php?option=com_k2&view=item&id=1446:preocupa-a-la-onu-dh-acuerdo-que-dispone-de-las-fuerzas-armadas-para-tareas-de-seguridad-publica&Itemid=265)

<sup>29</sup> As the sentence of the ICHR ordered in *Mujeres Víctimas de Tortura Sexual en Atenco Vs. México*, 2018.

<sup>30</sup> <https://www.eluniversal.com.mx/estados/caso-de-giovanni-lopez-uno-de-tantos-de-brutalidad-policia>

- European Union: Oversee the withdrawal of the armed forces from public security tasks in Mexico that should take place in 2024 and provide technical and financial assistance to strengthen civilian police.

## **RULE OF LAW GENERAL RECOMMENDATION**

- Mexico: Receive technical assistance and ensure the strengthening of the prosecution offices in the investigation of crimes, and the attention, investigation, and search for cases of forced disappearance, strengthening the Extraordinary Mechanism of Forensic Identification (EMFI). Ensure the gradual withdrawal of the Armed Forces from security tasks, strengthening the civilian police, and establishing adequate mechanisms of control, supervision, and accountability of elements of the security forces.
- European Union: Provide technical and financial assistance to strengthen prosecutors in the investigation of serious violations, as well as address the forensic crisis through the EMFI. Supervise the gradual withdrawal of the Armed Forces and accountability for elements of the security forces. Establish an effective mechanism to follow up on its own recommendations with the participation of civil society.

## **2. Human rights defenders and journalists**

Human rights defenders and journalists in Mexico continue to be under a systematic attack due to different structural issues, such as the widespread violence in the country, political violence, a crisis of access to justice marked by high levels of impunity and the systematic commission of serious human rights violations. The context is aggravated by different measures adopted by the government authorities, which limit the exercise of the right to defend human rights and journalism, while those who exercise these rights remain in danger in a country where defending human rights and exercising journalism is a risk.

In the previous six-year presidential period (2012-2018), the murders of at least 47 journalists<sup>31</sup> and 161 human rights defenders<sup>32</sup> were registered, this data confirmed that Mexico remains as one of the most dangerous countries for the defense of human rights, those who defend environmental and territory causes and people belonging to indigenous peoples and peasant people are especially at risk, as well as those who practise journalism.

Since the entry of the new government, on December 1st, 2018, and to date, the high levels of violence against human rights defenders and journalists continue. In 2019, at least 21 defenders<sup>33</sup> and ten journalists were killed<sup>34</sup>, and throughout 2020, including the period of the health emergency, violence has increased, and there are records of at least 12 human rights

<sup>31</sup> Article 19 (2020) Periodistas asesinados en México, en relación con su labor informativa. Available at: <https://articulo19.org/periodistasasesinados/>

<sup>32</sup> Red TDT (2018) Desde la memoria ... la esperanza. Recuento de asesinatos de personas defensoras de derechos humanos durante el sexenio de Enrique Peña Nieto (December 1st, 2012 to October 31st, 2018). Available at: <https://redtdt.org.mx/?p=12409>

<sup>33</sup> Red TDT (2020) 2019 año de contrastes y confrontaciones. Available at: <https://redtdt.org.mx/?p=14826>

<sup>34</sup> Article 19, *idem*.

defenders murdered<sup>35</sup>, ten of them being environmental defenders<sup>36</sup> and four journalists<sup>37</sup>, the states with the highest rates of violence against both populations being: Guerrero, Oaxaca, Michoacán, Puebla, Morelos, State of Mexico, Chiapas, and Chihuahua. Among the people killed at least four were women, including two transgender human rights defenders<sup>38</sup>.

Additionally, human rights defenders and journalists continue to face intimidation and harassment, threats, physical and digital attacks, arbitrary arrests and prosecution, and, in some cases, murder. These acts come mainly from public servants, and secondly, from individuals, through companies and organized crime actors<sup>39</sup>.

These risk conditions become worse in the current context of the COVID-19 pandemic, since the federal government has put in place policies that have had a negative impact on human rights, such as: development policies based on extractivism through megaprojects<sup>40</sup>, the current policy of immigration control, the use of the Armed Forces in matters of public security<sup>41</sup>, and the excessive use of force during public demonstrations<sup>42</sup>. Added to this situation, are the statements made by the Head of the Executive and other government authorities against human rights defenders and journalists<sup>43</sup>, the inaction of the Specialized Prosecutor in Human Rights to address impunity for more than 99% of crimes<sup>44</sup>, and the weakening of the Executive Commission for Attention to Victims (CEAV), which does not have sufficient budget to fulfill its obligations, and also lacks the personnel to provide adequate attention to victims, including human rights defenders and journalists<sup>45</sup>. Furthermore, more specifically, during this emergency, 69 attacks against the press related to coverage of the pandemic have been documented (25 against men, 36 against women and eight against the media). This represents 43% of the total number of attacks documented in this period. Of particular concern is the rebound in violence against women broadcasters and journalists, who received 52.7% of the attacks. The high rate of attacks committed by public servants (67.5%)<sup>46</sup> is also worrying. In the case of Oaxaca, which ranks first at the national level for attacks against women human rights defenders, there is concern about the increase in attacks against defenders during the

<sup>35</sup> Paulina Gómez Palacio, Karla Camarena, Adán Vez, Isaac Medardo, Eugui Roy Martínez, Elizabeth Montaña.

<sup>36</sup> See Méndez, Ernesto (2020) Van 10 defensores ambientales asesinados durante pandemia. 27 de mayo, *Excelsior*. Available at: <https://bit.ly/3fPxxEp>

<sup>37</sup> María Elena Ferral, Víctor Fernando Álvarez, Jorge Miguel Armenta Ávalos, José Luis Castillo Alemán. Likewise, the organizations Article 19 and CIMAC have documented 69 attacks on the press related to coverage of the pandemic (25 against men, 36 against women and eight against media), which means that 43% of all attacks documented in this period. Violence against women broadcasters and journalists is especially worrying as they received 52.7% of the attacks, and also the high level of attacks by public servants (67.5%).

<sup>38</sup> Karla Camarena, murdered March 31st, 2020, and Elizabeth Montaña, disappeared on June 10th and discovered dead on June 18th, 2020.

<sup>39</sup> SEGOB (2019) Informe Estadístico Marzo 2019. Mecanismo para la Protección de Personas Defensoras de Derechos Humanos y Periodistas. Available at: <https://bit.ly/2V7JfpW>

<sup>40</sup> SEGOB (2020) Decree which establishes austerity measures and gives continuity to megaprojects, April 23rd. Available at: <https://bit.ly/3fNyOQu>

<sup>41</sup> SEGOB (2020) Agreement which allows the Armed Forces to permanently carry out public security tasks, May 11th. Available at: <https://bit.ly/2Z23kz6>

<sup>42</sup> Comisión Estatal de Derechos Humanos Jalisco (2020) Emite CEDHJ Informe especial sobre detenciones arbitrarias en el contexto de las medidas sanitarias durante la pandemia por Covid-19, Boletín núm.49/20, Guadalajara, Jalisco, junio. Available at: <https://bit.ly/2BuTkXf>

<sup>43</sup> Article 19 (2018) Declaraciones de AMLO frente a la prensa contravienen su deber de tolerancia a la crítica, 19 de octubre. Available at: <https://bit.ly/2V3ltvi>

<sup>44</sup> G. Hinojosa, V. Schaafsma y M. Meyer (2019) Justicia para periodistas y defensoras de derechos humanos en México, 29 de marzo, WOLA. Available at: <https://bit.ly/3hKUy1b>

<sup>45</sup> CMDPDH et al. (2020) Atención a víctimas: austeridad y presupuesto son la punta del iceberg de los problemas estructurales que ha arrastrado la CEAV desde su creación, 4 June 4th. Available at: <https://bit.ly/2BDgR8b>

<sup>46</sup> Documents produced by the organizations Article19 and CIMAC.

pandemic because 56% of documented attacks from January to May 2020 occurred during the first 67 days of the COVID-19 contingency period<sup>47</sup>.

Despite the attacks, impunity and restrictions on the exercise of the right to defend human rights and practice journalism, there is still no comprehensive public policy for protection designed by the Mexican State. Currently, the Federal Mechanism for the Protection of Human Rights Defenders and Journalists, which benefits more than 1,308 people<sup>48</sup>, serves as a reactive measure to protect the life and integrity of human rights defenders and journalists. However, it is not sufficient because it does not address the structural causes of violence. The existing measures do not respond to the differentiated needs of populations either. Women and community human rights defenders are at particularly serious risk.

Several international organizations have voiced their concern about attacks and crimes against human rights defenders. The United Nations Organization, through the Universal Periodic Review Mechanism (UPR), has made various recommendations on this issue to call for attention to the situation of defenders and journalists. This concern has resulted in 2018 being the third topic with the most recommendations, receiving a total of 14 recommendations specifically aimed at strengthening the Protection Mechanism for Human Rights Defenders and Journalists and to call for attention about the right to defend and exercise freedom of expression<sup>49</sup>.

### **Recommendations:**

- Mexico: We urge the Mexican State to promote the joint construction-with civil society organizations and regional and international human rights organizations-the design and implementation of a collaborative work route that includes strengthening the Protection Mechanism for Defenders and Journalists, in response to the recommendations contained in the Diagnosis on the operation of the Mechanism, written by the Office in Mexico of the United Nations High Commissioner for Human Rights and other recommendations of national and international organizations in the context of COVID-19<sup>50</sup>. This for the consolidation of a broad and multi-actor agenda that enhances the dialogue for the construction of a comprehensive public protection policy.
- European Union: Support projects, technical assistance, programs, funding and other initiatives, in collaboration with civil society organizations and regional and international human rights organizations, aimed at the materialization of a comprehensive public policy for the protection of human rights defenders and journalists, as well as the implementation of the recommendations of the Diagnosis on the operation of the Mechanism prepared by the Office in Mexico of the United Nations High Commissioner for Human Rights. It is

<sup>47</sup> Documents produced by National Network of Women Defenders of Human Rights in Mexico and Consortium Oaxaca.

<sup>48</sup> Foro UNESCO (2020) Participación del Lic. Aaron Mastache, titular del Mecanismo Federal de Protección para Personas Defensoras y Periodistas, 21 de mayo. Available at: <https://bit.ly/2Yncl6F>

<sup>49</sup> UNO, Universal Periodic Review - Mexico, November 7th, 2018. Available at: <https://bit.ly/37Tqqfe>

<sup>50</sup> UNO (2020) Directrices relativas a la COVID-19 relativas a la defensa de derechos humanos y la libertad de expresión. Available at: <https://bit.ly/3fN6MV>

CIDH (2020) Resolución 1/2020 pandemia y derechos humanos en las Américas, 10 de abril. Available at: <https://bit.ly/2Z0opdo>

essential that these initiatives are periodically monitored, that their impact is evaluated and that the interventions are not centralized in Mexico City.

### 3. Women

According to INEGI, "violence against women is widespread throughout the country, 30.7 million women have been victims of violent and discriminatory acts at some point throughout their lives<sup>51</sup>." On the one hand, according to official information, 15,853 women were missing in Mexico as of December 31st, 2019 (25.7% of the total number of missing people in Mexico). The states that head the list with the highest number of cases are: the Mexico State (3,216)<sup>52</sup>, Tamaulipas (2,245), Puebla (1,445) and Nuevo León (1,065)<sup>53</sup>. Girls, adolescents and young women are particularly vulnerable to the crime of disappearance, since 61.65% of the victims are girls, adolescents and young women between the ages of ten and 29. This means that 4,443 victims are between 15 and 19 years old (28.02% of the total number of cases of missing women), 1,850 are between ten and 14 years old (11.66%); 1,945 are between 20 and 24 years old (12.26%); and 1,699 are between 25 and 29 years old (10.71%). Therefore, it is important to strengthen the implementation of the GVAM in the matter of the disappearance of women. It is also necessary to strengthen the Context Analysis Units to determine the relationship between the disappearance of women and other crimes. Official data also show an increasing trend in the alleged cases of intentional homicide against women, with a total of 1,735 cases registered in 2015, 2,191 cases in 2016, 2,536 cases in 2017, 2,781 cases in 2018, 2,822 in 2019 and 987 cases between January and April of 2020<sup>54</sup>.

The case of Oaxaca serves as an example of the violence described, since, in this state, femicidal violence is characterized by:

- 1) lack of clear mechanisms and denial or inadequate issuance of protection orders;
- 2) lack of personnel, focus and remoteness of women's justice centers, particularly for indigenous women;
- 3) politicization and simulation of the GVAM;
- 4) lack of a complete and disaggregated state data bank,
- 5) lack of state shelters;
- 6) almost total impunity.

51 INEGI (2017) Estadísticas a propósito del día internacional de la eliminación de la violencia contra la mujer (25 de noviembre)", 23 de noviembre, p. 4. Available at:

[https://www.inegi.org.mx/contenidos/saladeprensa/aproposito/2017/violencia2017\\_Nal.pdf](https://www.inegi.org.mx/contenidos/saladeprensa/aproposito/2017/violencia2017_Nal.pdf)

52 Diagnóstico sobre mujeres desaparecidas en el Estado de México de IDHEAS, Litigio Estratégico en Derechos Humanos y el Instituto Mexicano de Democracia y Derechos Humanos: <https://www.idheas.org.mx/publicaciones-idheas/diagnostico-mujeres-desaparecidas-en-el-estado-de-mexico/>

53 Comisión Nacional de Búsqueda (2020). Informe sobre fosas clandestinas y registro nacional de personas desaparecidas o no localizadas, 6 de enero de 2020. Available at: <https://bit.ly/3dTqrkZ>

54 For more information, please see chapter on violence against women - Informe conjunto de IDHEAS, Litigio Estratégico en Derechos Humanos y la Comisión Mexicana de Defensa y Promoción de los Derechos Humanos al Comité de Derechos Humanos de las Naciones Unidas en el marco del sexto examen de México: <https://www.idheas.org.mx/publicaciones-idheas/publicaciones-idheas-litigio-estrategico/comite-de-derechos-humanos-sexto-examen-medico/>

The situation is even worse in the context of the COVID-19 pandemic. From the beginning of the contingency until June 1st<sup>55</sup>, 16 femicides have occurred, 43% in public spaces, including the femicide of a baby and two seven-year-old girls who were shot on public roads. The Isthmus region is the one with the highest number of cases. Family violence increased 25% compared to the first two months of the year. More than 80% of the women were assaulted in their own home; the Valles Centrales region has the highest number of cases. The disappearances of women also increased: 118 women are missing in 2020, 60% during the contingency period. A total of 800 women disappeared during this administration.

Most federal and local institutions do not have real, reliable, updated or disaggregated data regarding the incidence of the main violent crimes that affect women<sup>56</sup>. Nor do they have precise diagnoses. This lack of data causes ineffective public policies and the need for civil society to monitor the real incidence of violence against women. Public resources and programs with a gender focus have been cut due to the austerity policies of the current federal administration, affecting the operation of NGOs and State mechanisms that dealt with violence against women (for example, the National Network of Refuges (Red Nacional de Refugios) and Indigenous and Afro-Mexican Women's Houses (Casas de la Mujer Indígena o Afromexicana or CAMI)<sup>57</sup>. Far from strengthening these mechanisms, the State has forced them to close their doors<sup>58</sup> as a consequence of the suspension of the economic subsidies on which they depended for their activities. Other budget cuts have also weakened the study and evaluation of public policies related to addressing violence against women (for example, federal cuts to Research Centers). In addition, it is still necessary to strengthen the capacities and resources of the authorities in charge of the investigation, the administration of justice, the application of protocols, compliance with national and international standards, and comprehensive compensation for damage.

Addressing and preventing violence against women does not seem to be a priority, neither in budgetary terms nor in terms of public policies, not even in this context of a health emergency due to COVID-19, which has contributed to the increase in violence against women in their households and against women in situations of vulnerability. In fact, during the pandemic, rates of violence against women have increased; specifically, it is calculated that 11 women, on average, are murdered daily in Mexico. In addition, due to the suspension of judicial services due to the COVID-19 pandemic, most of the Judicial Powers limited their services without applying a gender perspective, which hinders - or impedes - access to justice for women. Such is the case, for example, of women deprived of liberty, who do not have mechanisms to demand adequate internment conditions that do not increase their - already high - risk of becoming ill from COVID-19<sup>59</sup>. In addition, the adoption of a militarized model of public security - which

<sup>55</sup> Consorcio Oaxaca (2020) *Violencia Femicida en Oaxaca. La pandemia que no cesa*. Available at: <https://consorciooaxaca.org/violencia-femicida-en-oaxaca-la-pandemia-que-no-cesa/>

<sup>56</sup> For more information see report from Red TDT (2020) *Impunidad feminicida. Radiografía de datos oficiales sobre violencias contra las mujeres (2017-2019)*. Available at: <https://redtdt.org.mx/mujeres/wp-content/uploads/sites/11/2020/03/131019-informe-de-mujeres-6.pdf>

<sup>57</sup> Amnistía Internacional, Equis, Red Nacional de Refugios, Red Nacional de Casas de la Mujer Indígena (2020) *Comunicado para medios. OSCs informan los resultados de la reunión con autoridades federales, para atender las violencias contra las mujeres durante y después de la pandemia*, May 25th. Available at: [https://drive.google.com/file/d/19Mm\\_kbuwVAU2OnSS79xo9XdTtxZrR1N/view?fbclid=IwAR1KK3UJXDoJGBi5DaUL3ods2IxSGPBO2LX9LQWcdR0A-RB363xPcbwWHY0](https://drive.google.com/file/d/19Mm_kbuwVAU2OnSS79xo9XdTtxZrR1N/view?fbclid=IwAR1KK3UJXDoJGBi5DaUL3ods2IxSGPBO2LX9LQWcdR0A-RB363xPcbwWHY0)

<sup>58</sup> Itxaro Arteta (2020) *Hacienda retiene los recursos para la atención a violencia contra mujeres indígenas*, *Animal Político*, May 4th. Available at: <https://www.animalpolitico.com/2020/05/hacienda-retiene-recursos-atencion-violencia-mujeres-indigenas/>

<sup>59</sup> Para más información, consultar EQUIS, *Justicia para las Mujeres (2020) ¿Derechos aplazables? el Poder Judicial frente a la población penitenciaria durante la pandemia por COVID-19*. Available at: [https://equis.org.mx/wp-content/uploads/2020/05/Informe\\_DerechosAplazables.pdf](https://equis.org.mx/wp-content/uploads/2020/05/Informe_DerechosAplazables.pdf)

has been shown to be incompatible with the human rights of women<sup>60</sup> - worsens the historical situation of violence and discrimination against women, starting with sexual violence committed by police officers and security forces.

Finally, the COVID-19 pandemic has further hindered the already precarious access to termination of pregnancy in Mexico<sup>61</sup>, supported by restrictive legislation in most of the territory, with the only exceptions of Mexico City and Oaxaca. Fear of contagion discourages adolescents and women from seeking reproductive health services in health institutions, not only for abortion, but also for contraception, prenatal follow-up, or obstetric emergencies such as childbirth care, which can lead to an increase in maternal deaths that, moreover, were already disproportionately affecting indigenous women before the COVID-19 pandemic. However, the feminist and women's movement can't be stopped by the male chauvinist and criminalizing discourse of some state authorities, including the President. For example, last month, the president stated that 90% of 911 calls for help - in the context of the COVID-19 pandemic - were false<sup>62</sup>, contrary to the evidence provided by civil society organizations that work directly with women victims of violence, and also contrary to information published by other government agencies and international human rights organizations. Despite the denial and minimization of violence against women in Mexico, NGOs and the feminist movement have organized not only to protest against this discourse, but also to demand real results.

### **Recommendations:**

- Mexico: We urge the Mexican State and the Member States of the European Union: promote the joint construction, with regional and international organizations of women's and girls' rights, of comprehensive public policies throughout the national territory in order to prevent, address, sanction, investigate and eradicate of all types of violence against women and girls, so that the implementation of all the recommendations of national and international organizations is possible at the federal and local levels . In particular, we request your express commitment to strengthen the Gender Violence Alert Mechanism (AVGM), the issuance of protection orders for victims of gender violence, the Shelters, External Care Centers and the Indigenous and Afro-Mexican Women's Houses (CAMI).
- European Union: Support projects, technical assistance, programs, financing and other initiatives, in collaboration with civil society organizations and regional and international organizations, aimed at the prevention, care, punishment, investigation and eradication of all types of violence against women and girls. It is essential that the principles of accountability, impact evaluation and transparency are applied in all initiatives. Also, prioritize support for states where the highest rates of violence are concentrated and where there is no support provided by the European Union.

## **4. Childhood and adolescence**

<sup>60</sup> Para más información, consultar EQUIS, Justicia para las Mujeres (2019) Violencia contra las mujeres e impunidad: ¿más allá del punitivismo?, p.13. Available at: [https://equis.org/wp-content/uploads/2020/05/Informe\\_Impunidad\\_Y\\_Violencia.pdf](https://equis.org/wp-content/uploads/2020/05/Informe_Impunidad_Y_Violencia.pdf)

<sup>61</sup> GIRE (2018) La pieza faltante. Justicia reproductiva en México. Available at: <https://justiciareproductiva.gire.org.mx/#/>

<sup>62</sup> Presidencia de la República (2020). Versión estenográfica de la conferencia de prensa matutina | Friday, May 15th 2020. Available at: <https://bit.ly/3inMeEM>

There are 38.5 million children and adolescents living in Mexico, representing 30.8% of the total population<sup>63</sup>. Of these, one of every two lives in conditions of poverty: 9.3% (3.7 million) in extreme poverty, and 40.3% (15.9 million) in moderate poverty<sup>64</sup>.

The climate of generalized violence and human rights violations in the country negatively affects children and adolescents. Both in the first quarter of 2020 and in 2019, an average of seven children or adolescents were murdered every day. For every seven of these victims, six are boys. By state, Guanajuato, Michoacán, Mexico State, Oaxaca and Chihuahua show the highest rates of violence for both years.

With regard to sexual violence, in 2018, 17,586 sexual crimes against children and adolescents were recorded; in 85.3 per cent of the cases the victims were girls<sup>65</sup>. In other words, every 30 minutes in the country a sexual offence is committed against children. Most of these crimes take place at home or at school, which shows us that the family and school, which should be protective environments for children, often become risk environments.

With regard to femicides, between 2015 and April 2020, one out of every ten femicides in the country affected girls, and in 2019, an average of eight gender-based murders occurred per month<sup>66</sup>. In terms of disappearances, up to January 2020, 11,072 children and adolescents had disappeared in Mexico. In 2019 alone, an average of 6.9 children and adolescents disappeared each day in Mexico<sup>67</sup>. The states with the most cases of missing children and adolescents are Tamaulipas and Mexico State. We can clearly identify patterns in homicides and disappearances of children and adolescents: in homicides the majority of victims are male adolescents and in disappearances they are female adolescents. There is no official assessment that explains why so many adolescents die and disappear, but preliminary studies indicate that in the case of girls they are victims of trafficking and sexual exploitation and in the case of boys they are recruited by organized crime. The exact number of children and young people working for organized crime is not known, although the Inter-American Commission on Human Rights<sup>68</sup> indicates that there are at least 30,000 children and adolescents involved, used for different tasks (as informants, for producing illegal substances, for committing high impact crimes such as homicides, mutilations and disappearances) and subjected to abuse and exploitation at the same time.

Despite these alarming data, children and adolescents are absent and invisible in the government's political agenda, and are not part of any of President López Obrador's 25 priority projects. There is a need to improve and implement coordinated, comprehensive and intersectoral services, strategies and programs aimed at preventing, eradicating and addressing violence against children. There is a Mexican Action Plan 2019-2024, developed within the framework of the Global Alliance, to put an end to violence against children, organized around four strategies, but its progress, impacts, and specific budget for implementation are not known. Above all, there is a lack of concrete actions to address violence in the context of organized crime.

63 INEGI (2020) Statistics about Children's Day. National data. Press Release No. 164/20, 28 April. Available at: [https://www.inegi.org.mx/contenidos/saladeprensa/aproposito/2020/EAP\\_Nino.pdf](https://www.inegi.org.mx/contenidos/saladeprensa/aproposito/2020/EAP_Nino.pdf)

64 CONEVAL (2018) Measuring poverty. Poverty in Mexico. Results of poverty in Mexico 2018 at national level and by states Available at: <https://www.coneval.org.mx/Medicion/MP/Paginas/Pobreza-2018.aspx>

65 INEGI (2019) National Census of State Prosecutors 2019. Available at: <https://www.inegi.org.mx/programas/cnpj/2019/>

66 Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública (2020) Open Data on Crime Incidence. Available at: <https://www.gob.mx/sesnsp/acciones-y-programas/datos-abiertos-de-incidencia-delictiva?state=published>

67 Comisión Nacional de Búsqueda, Press Conference, January 6th, 2020.

68 ICHR (2015) Violence, children and organized crime. OAS/Ser.L/V/II Doc.40/15. Available at: <http://www.oas.org/es/cidh/informes/pdfs/ViolenciaNinez2016.pdf>

Regarding the current COVID-19 pandemic, although children are not the most directly affected by this disease, there are other implications for them in the short, medium and long term:

- 1) Probable increase in child poverty - CONEVAL predicted that the increase in income poverty will be between 7.2 and 7.9%. This means that between 8.9 and 9.8 million people will join the population with insufficient resources to acquire basic food, goods and basic services<sup>69</sup>;
- 2) Probable increase in nutritional deficiencies and malnutrition;
- 3) Domestic violence and abuse (only in the first two months of the pandemic, 230,757 emergency calls related to family violence incidents have been registered)<sup>70</sup>;
- 4) Increase in school dropouts and child labor<sup>71</sup>.

### **Recommendations:**

- Mexico: Review, update and put into action a national strategy for the comprehensive prevention, eradication and care of all forms of violence against children and adolescents, with a long-term vision that integrates and coordinates all existing and future programs, addresses the structural causes of violence and has a sufficient budget for its implementation.
- European Union: Agree with the Mexican government on the implementation of cooperation projects aimed at the prevention, eradication, and response of all forms of violence against children, supporting the work of civil society organizations specialized in the issue. In particular, to assist in programs for the disengagement and social reintegration of adolescents who have been recruited by organized crime.

## **5. Indigenous peoples**

Mexico enjoys great cultural, linguistic and natural richness and diversity. Its indigenous population represents 10.1% of the country's total population and there are 68 different indigenous languages. Its territory is home to between 60 and 70% of the planet's known biological diversity. Despite this, indigenous people are historically marginalized and suffer from structural discrimination in different areas such as: political, economic, health, education, work, decent housing, or access to justice. The poverty rate of indigenous people is four times higher than the average. Neglect, discrimination and marginalization by State institutions were accentuated by the Covid-19 pandemic, as reported by more than 200 NGOs in mid-May 2020<sup>72</sup>. After monitoring the situation in indigenous communities, NGOs concluded that "the pandemic

<sup>69</sup> CONEVAL (2020) Social policy in the context of the SARS-CoV-2 pandemic (COVID-19) in Mexico. Available at: [https://www.coneval.org.mx/Evaluacion/IEPSM/Documents/Politica\\_Social\\_COVID-19.pdf](https://www.coneval.org.mx/Evaluacion/IEPSM/Documents/Politica_Social_COVID-19.pdf)

<sup>70</sup> Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública (2020) Information on violence against women. Crime incidence and 9-1-1 emergency calls. National Information Center. Available at: <https://drive.google.com/file/d/1yVfgnItDgQC88zr2fnHW4lE8MwzmzuPi0/view>

<sup>71</sup> INEGI (2017) Child Labor Module (MTI) 2017. Available at: [https://www.inegi.org.mx/programas/mti/2017/default.html#Datos\\_abiertos](https://www.inegi.org.mx/programas/mti/2017/default.html#Datos_abiertos)

<sup>72</sup> <https://serapaz.org.mx/ante-la-preocupante-vulnerabilidad-de-pueblos-y-comunidades-frente-a-covid-19-organizaciones-de-la-sociedad-civil-piden-un-espacio-de-dialogo/>

has revealed a long list of structural conditions that deepen the exclusion of indigenous peoples and rural communities from the full exercise of rights<sup>73</sup>".

The State made constitutional reforms and implemented various projects to help indigenous people, as an attempt to repair historical damage and compensate for structural discrimination against them. However, these reforms and projects have been insufficient and of a welfare-oriented nature, causing economic dependence without reducing poverty.

The main concerns are:

- The gradual monopolization and appropriation of indigenous lands by groups with economic and political power that are often linked to organized crime.

- Forced displacement through the implementation of mega-projects, by criminal groups or groups that are heirs to paramilitarism or by internal community factors. The intrinsic relationship of people with their lands and the destructive consequences of displacement generate a clear risk of cultural and physical extinction (ethnocide).

- Despite legislative reforms about indigenous peoples' rights, as well as the recognition of peoples' own normative systems and institutions, they are not harmonized or recognized in practice by the institutions. Currently, indigenous peoples have to demonstrate with anthropological studies whether or not they are members of indigenous peoples and why it is relevant to implement their forms of government outside political parties. In addition, the Mexican legal framework has been modified to attract private investment at the expense of respect for the rights of indigenous peoples. The modern state favors ethnocide, disguised as the current model called ethno-development, such as the Maya Train or the Transisthmian Corridor, which through "consultations" simulates compliance with ILO Convention 169.

- The struggle for justice and the defense of land and territory cause repression, threats, criminalization, harassment, aggression, illegal imprisonment and even homicides of community defenders and community authorities<sup>74</sup>. These acts often go unpunished either through negligence, passivity or delay by the State in the investigation and punishment. The use of the justice system as a mechanism for social silencing is also observed<sup>75</sup>.

## **Recommendations:**

- Mexico: Respect and protect the right to land, peoples' territory, the right to water and food, health, consultation and free, prior and informed consent of indigenous peoples.

<sup>73</sup> <https://serapaz.org.mx/monitoreo-de-comunidades-indigenas-y-equiparables-ante-la-emergencia-sanitaria-por-el-virus-sars-cov-2/>

<sup>74</sup> The Mexican Centre for Environmental Law (CEMDA) has monitored that, from January 2012 to December 2019, there were 499 attacks against environmental defenders and 83 murders, most of which were of indigenous people. Information from the report "Informe sobre la situación de las personas defensoras de los derechos humanos ambientales 2019". Available at: <https://www.cemda.org.mx/wp-content/uploads/2020/03/informe-personas-defensoras-2019.pdf>

<sup>75</sup> The "Censo Nacional de Gobierno, Seguridad Pública y Sistema Penitenciario Estatales 2019" estimates that the indigenous population deprived of liberty is 5,804 persons (using the linguistic criterion only). Data available at: [https://www.inegi.org.mx/contenidos/programas/cngspspe/2019/doc/cngspspe\\_2019\\_resultados.pdf](https://www.inegi.org.mx/contenidos/programas/cngspspe/2019/doc/cngspspe_2019_resultados.pdf) and according to information gathered by AsiLegal based on open data from Dirección General de Epidemiología de la Secretaría de Salud, on June 21st, 2020 there were 2,053 indigenous detainees infected with Covid-19.

- European Union: Ensure that European companies investing in Mexico comply with all international standards on the collective rights of indigenous peoples regarding their self-determination, in particular the right to consultation and free, prior and informed consent.

## 6. Migration

On the issue of migration, we highlight at least four points of concern:

- 1) Migratory detention,
- 2) Access to the asylum process and
- 3) Protection of unaccompanied migrant children,
- 4) Indigenous migrant workers.

### 6.a Migratory Detention

The deprivation of liberty of migrants is a practice that has been implemented and consolidated for four decades<sup>76</sup>. There are 59 detention centers for migrants: 32 Migrant Stations (MS), 15 Type A Temporary Stations (TS) for a maximum stay of 48 hours and 12 Type B TS for a maximum stay of seven days<sup>77</sup>. Since 2019, the National Guard has been intervening with the National Migration Institute (INM) in migration control operations<sup>78</sup>. In that same year, 52% of migration detentions were carried out in just two states of the country, Chiapas and Tabasco, making a total of 186,750 detentions. Of this population, 141,223 were deported (75.21%). The number of detentions generated overcrowding in the Migrant Station Siglo XXI, located in Tapachula (Chiapas), by registering a number of people detained at twice its capacity<sup>79</sup>. At different times, the precarious conditions of Migrant Stations and Temporary Stations have been reported<sup>80</sup>, due to lack of sanitation, medical and psychological care, deficient nutrition, and due to the mistreatment that detainees face<sup>81</sup>. In addition, four migrants died in the custody of migration authorities during 2019. Due to the above-mentioned conditions and the health emergency, there were several acts of protest by people detained in various migrant holding

<sup>76</sup> The official discourse used by the Instituto Nacional de Migración has made use of different terms to refer to migratory detention, which it has called "presentation" (article 3, section XX of the Migration Act), "accommodation", "rescue" or "securing", euphemisms that have minimized the effects that actions of containment and detention have on persons in the context of human mobility and their families.

<sup>77</sup> Article 7 of the Migration Act authorizes the migration authority to make space available to receive persons who for some reason cannot be transferred to a type A or B Temporary Station or to a Migrant Station.

<sup>78</sup> The massive arrival of people in the context of human mobility to the southern border of the United States again generated great pressure on the Mexican government, leading to the signing of the Migration Agreement between the two countries, through which Mexico is committed to register and control entries at the border and to deploy the National Guard throughout the territory, especially on the southern border.

<sup>79</sup> MS Siglo XXI, in Tapachula (Chiapas) has a capacity for 960 people; MS Acayucan (Veracruz) for 836 people and Migrant Station "Las Agujas" in Mexico City for 464 people.

<sup>80</sup> The precarious situation in which people in migratory detention find themselves has led to the issue of recommendations by the National Human Rights Commission (CNDH), such as 47/2017, through which the risks involved in the so-called "isolation areas" are made clear, especially since a case of suicide was recorded in 2015 in the Siglo XXI Migratory Station.

CNDH (2017) Recommendation No. 47/2017. In the case of violations of the human rights to protection of health and personal integrity committed against V1 and V2, persons in a migration context, in the migrant holding center of the National Institute of Migration in Tapachula, Chiapas. September 29, 2017. Available at: <https://www.cndh.org.mx/documento/recomendacion-472017>

<sup>81</sup> Barja Coria, Joselin (coord.) (2015) Derechos Cautivos. La situación de las personas migrantes y sujetas a protección internacional en los Centros de detención migratoria: siete experiencias de monitoreo de la Sociedad Civil. p. 66: <https://sinfronteras.org.mx/docs/inf/inf-derechos-cautivos.pdf>

centers throughout the country, which were repressed by migration agents and the National Guard, using pepper gas<sup>82</sup>, and resulting in one death and 15 people poisoned<sup>83</sup>.

## 6.b Access to the asylum procedure

In 2019, the Mexican Commission for Assistance to Refugees (COMAR) registered 70,302 applications for refugee status; the asylum seekers came from seven countries in Central and South America: Honduras, El Salvador, Cuba, Venezuela and Haiti. In the case of Honduras, more than 30,000 migrants applied for asylum during 2019, followed by El Salvador with 8,991 applicants, Cuba with 8,677 cases and Venezuela with 7,662 applications<sup>84</sup>. However, the number granted refugee status continues to be very low, reaching only 10,000 people, that is 14.22% of the applications submitted<sup>85</sup>. On the other hand, despite the increase in asylum applications, no measures have been implemented to strengthen COMAR, an institution that is understaffed and has suffered budget cuts, hindering its work<sup>86</sup>. With regard to the socio-economic integration of refugees, much work remains to be done, especially in combating discrimination and xenophobia, and ensuring that authorities such as the Ministry of Education, the Ministry of Health and the Ministry of Labor and Social Welfare, among others, recognize the documentation issued to refugees to prove their identity and their stay in the country. The same is true in the private sector, such as banks, which continue to place obstacles in the way of opening accounts, both for savings and salary payments.

## 6.c Protection of unaccompanied migrant children and adolescents

Despite the fact that international human rights standards prohibit migratory detention, in 2019, the Mexican government arrested 51,999 migrant children and adolescents; nearly 12,000 (22.8%) were unaccompanied<sup>87</sup>. In the same period, 34,705 children and adolescents have been deported, and of these 20.7% (7,170) were travelling alone<sup>88</sup>. So far under the current administration, alternatives to detention have diminished and there are still no adequate shelters administered by the System for the Integral Development of the Family (IDF). In addition, there is no standardized approach, by local protection agencies, for the protection of unaccompanied children and adolescents.

## 6.d Indigenous migrant workers

In Mexico, hundreds of thousands of landless indigenous families migrate to the rhythm of the harvest seasons in the agricultural fields of the north and west of the country. With miserable

82 Colectivo de Observación y Monitoreo de Derechos Humanos del Sureste mexicano y Grupo Impulsor contra la Detención Migratoria y la Tortura (2020) Press release: The National Guard violently represses a protest at the Tapachula immigration detention centre, 25 March. Available at: [http://caravanamigrante.ibero.mx/uploads/monitoreos\\_pdf/55bd8633c327481d5b40ddfd81455917.pdf](http://caravanamigrante.ibero.mx/uploads/monitoreos_pdf/55bd8633c327481d5b40ddfd81455917.pdf)

Mandujano, Isaín (2020) Migrantes se amotinan en estación del INM en Tapachula y se fugan 14. *Revista Proceso*, 24 de marzo. Available at: <https://www.proceso.com.mx/623037/migrantes-se-amotinan-en-estacion-del-inm-en-tapachula-y-se-fugan-14>

83 *ADN 40* (2020) Motín en estación migratoria de Tabasco deja al menos un muerto. 1 de abril. Available at: <https://www.adn40.mx/noticia/mexico/notas/2020-04-01-08-07/motin-en-estacion-migratoria-de-tabasco-deja-al-menos-un-muerto>

84 *Aristegui Noticias* (2020) Petición de refugio en México creció 125% en 2019, se registraron más de 66 mil solicitudes: SEGOB, January 1st. Available at: <https://aristeguinoticias.com/0101/mexico/peticion-de-refugio-en-mexico-crecio-125-en-2019-se-registraron-mas-de-66-mil-solicitudes-segob>

85 Lagner, Ana (2020) Al alza, cifra de personas que solicitan refugio en México: expertos. *La Jornada*, February 13th. Available at: <https://www.jornada.com.mx/ultimas/politica/2020/02/13/al-alza-cifra-de-personas-que-solicitan-refugio-en-mexico-expertos-5156.html>

86 Cantillo, Paulo (2019). Refugiarán a más con menos dinero; Comisión Mexicana de Ayuda a Refugiados. *Excélsior*, June 13th. Available at: <https://www.excelsior.com.mx/nacional/refugiaran-a-mas-con-menos-dinero-comision-mexicana-de-ayuda-a-refugiados/1318361>

87 Unidad de Política Migratoria, Subsecretaría de Derechos Humanos, Población y Migración (2020). Children and adolescents in an irregular migratory situation, from and in transit through Mexico Available at: [http://portales.segob.gob.mx/work/models/PoliticaMigratoria/CEM/Estadistica/NNA/NNA\\_Sintesis\\_2019.pdf](http://portales.segob.gob.mx/work/models/PoliticaMigratoria/CEM/Estadistica/NNA/NNA_Sintesis_2019.pdf)

88 *Idem*.

salaries and no labor contracts, they are employed as day laborers and agricultural laborers. They accumulate multiple vulnerability factors and are forgotten by public policies: because of their mobility, they do not manage to access social programs or basic services such as health or education for their children. In the context of the pandemic, families continue to migrate without being able to preserve their health or that of their communities that lack health infrastructure. Although the Ministry of Labor and Social Welfare has published an action guide for agricultural enterprises, it has not been translated into concrete actions, due to lack of controls and political will.

### **Recommendations:**

- Mexico: In the case of children and adolescents, the law and the Convention on the Rights of the Child must be respected, so that under no circumstances should children be detained in Migrant Stations or Temporary Stations; it is urgent to strengthen the child protection system, in particular the shelters for unaccompanied children.
- European Union: Provide technical assistance so that the congress harmonizes the Migration Law with the General Law on the Rights of Children and Adolescents, in order to guarantee due protection of the best interests of migrant children who travel alone or accompanied by their families.

## **7. Business and Human Rights**

We welcome the initiative of the European Union and Commissioner Didier Reynders to develop a regulation that prevents, addresses and repairs human rights violations and environmental abuses due to corporate bad practice, as well as the distinction of other regulation models for the year 2021.

The regulation of due diligence (HRDD) should also be understood from its extraterritorial activities, emphasizing the responsibility of parent companies with their value chains; not only the SMEs, but in any context, including in the current health crisis and other economic, social and environmental crises. The regulation must include effective and comprehensive reparation for past and present victims with general guidelines for all States of the Union. Including better access to justice with a gender and intersectional perspective would be a great step forward.

The health crisis due to COVID-19 has had strong impacts on labor rights in various sectors in Mexico. For example, the Spanish company Cabify which reduced working hours and asked employees to sign a "leave of absence without pay" agreement in order to reduce the working hours, and those who did not sign were asked to resign, intimidated and denied a settlement<sup>89</sup>.

In this context, the EU and its companies should refrain from initiating lawsuits in the event that the Mexican government is unable to fulfil its commitments within trade and investment agreements. In this sense, we express our concern about the renewal of the Global Agreement (GA) and the culmination of negotiations during the pandemic, which includes the chapter on investment protection. This implies granting transnational corporations the exclusive right to

<sup>89</sup> PODER, Proyecto sobre Organización, Desarrollo, Educación e Investigación (2020) Cabify durante COVID-19: o te recortas el sueldo o renuncias. Rinducuentas, April 1st. Available at: <https://www.rinducuentas.org/reportajes/2020/04/01/cabify-durante-el-covid-19-o-te-recortas-el-sueldo-o-renuncias/>

challenge the democratic decisions of the States, challenging legislation of public interest and suing Mexico.<sup>90</sup>

Human rights impact assessments (HRIAs) are urgently needed for extractive megaprojects with European investments, including renewable energy and projects of the current President. For example, the Spanish and Portuguese projects on the Inter-Oceanic Corridor and the Maya Train (See Fact Sheet 11). These will have an impact on one of the most biodiverse areas in the world as it will cross the Mayan forest - the second largest green lung in Latin America after the Amazon - causing irreversible impacts on native people, biodiversity, soil and water.

Neither have Spanish companies carried out HRIAs to prevent these impacts in the case of the Morelos Integral Project (MIP), a high-risk energy and industrial development project in Puebla, Morelos and Tlaxcala that has resulted in violations of the right to self-determination of the Nahua peoples of the Popocatepetl volcano and the security of the population. This has led to the criminalization and repression of social protest, torture, imprisonment of defenders, prosecution, closure of community radio stations, militarization, interference of organized crime in the project and the murder of defender Samir Flores Soberanes on February 20th, 2019. (See Fact Sheet 12).

### **Recommendations:**

- Mexico: To immediately implement mandatory human rights due diligence regulations for all business activity as well as public and private investment, including foreign investment, developed under the previous Global Agreement and prior to its updating.
- European Union: To stop works financed with European resources that have not carried out human rights and environmental impact assessments and previous consultations that are free, informative, culturally appropriate and in good faith, until such time as they are carried out and current and potential damages are addressed, as well as the cancellation of works that have caused irreversible damage to human rights defenders, the environment or other life, including repair of damage.
- Both parties: Should level the playing field between them, respect international human rights jurisdiction for their protection and enjoyment, and develop due diligence regulations including civil society on both sides.

## **8. LGBT Persons**

The cis-hetero norm idea of sexuality based on reproductive purposes legitimizes discourses and actions that stigmatize, criminalize, pathologize, persecute and discriminate persons of the LGBT<sup>91</sup> community for posing a threat to the social, moral and patriarchal order.

90 VV.AA. (2020) Profundamente preocupante la renovación del acuerdo de comercio Unión Europea-México: Organizaciones de la Sociedad Civil europea. Stop Corporate Impunity, April 29th. Available at: <https://www.stopcorporateimpunity.org/acuerdo-ue-mexico-profundamente-preocupante-para-la-sociedad-civil-europea/?lang=es>

91 The acronym LGBT is used to refer to lesbian, gay, bisexual and transgender people. These initials are derived from sexual orientation and gender identity and expression. As opposed to the LGBTTT or LGBTTTTIQ acronyms, the LGBT acronym adheres to the international framework for human rights.

Some manifestations of discrimination have been studied by ENADIS 2017<sup>92</sup> in which 46.3% said that nothing justifies two people of the same sex living together as a couple, 36.4% would not rent to trans people, 66% believe that there is little or no respect for the rights of gays or lesbians as well as 72% regarding the rights of trans people.

Furthermore, civil society found that 30.4% of the people in the LGBT community in the survey have been discriminated in health services<sup>93</sup>; 52% have been discriminated in educational settings<sup>94</sup>; almost 50% reported that they do not receive the same treatment as heterosexual people in the workplace<sup>95</sup>. In addition, 17% have been arbitrarily detained for being LGBT and 39.7% of them have been assaulted by public authorities<sup>96</sup>.

These manifestations of discrimination, together with rejection by families, loss of supporting networks, non-recognition of their rights and other forms of widespread violence, push persons with LGBT identity into precarious conditions and persecution, even forcing them to migrate. Thus, they are left unprotected at the place of origin, in the transit process and at the destination.

Furthermore, they face the maximum expression of violence with hate crimes committed because of their sexual orientation, gender identity and expression (SOGIE). According to data from Letra S newspaper<sup>97</sup>, 473 persons of LGBT identity were murdered in the country during the last six years, 261 of them were trans women. There were only nine femicides of lesbian women and one of a bisexual woman. The National Observatory of Crimes against LGBT People in Mexico has observed a clear increase in the last two years of these hate crimes<sup>98</sup>.

Given this context, during the 2018 Universal Periodic Review, Mexico received seven recommendations for the implementation of actions to eliminate violence against persons who are LGBT, to guarantee the protection of their rights and to include them in the National Development Plan.

Finally, in the context of the COVID-19 pandemic, the confinement measures mean that many persons with LGBT identities are living with those who are violating them, denying or rejecting their SOGIE. Hate speeches have been present since the beginning of the pandemic with

92 CONAPRED, CNDH, UNAM, CONACYT, UNAM (2017) Encuesta Nacional de Discriminación 2017. Principales Resultados. Available at: [https://www.inegi.org.mx/contenidos/programas/enadis/2017/doc/enadis2017\\_resultados.pdf](https://www.inegi.org.mx/contenidos/programas/enadis/2017/doc/enadis2017_resultados.pdf)

93 CEAV y Fundación Arcoiris (2018) Diagnóstico Nacional sobre la discriminación a las personas LGBTI en México. Derecho a la salud. Available at:

[https://www.gob.mx/cms/uploads/attachment/file/437845/FINAL.\\_Diagn\\_sticoNacionalSalud\\_1.pdf](https://www.gob.mx/cms/uploads/attachment/file/437845/FINAL._Diagn_sticoNacionalSalud_1.pdf)

94 CEAV and Fundación Arcoiris (2018) Diagnóstico Nacional sobre la discriminación a las personas LGBTI en México. Derecho a la educación. Available at:

[https://www.gob.mx/cms/uploads/attachment/file/437842/FINAL.\\_Diagn\\_sticoNacionalEducaci\\_n\\_1.pdf](https://www.gob.mx/cms/uploads/attachment/file/437842/FINAL._Diagn_sticoNacionalEducaci_n_1.pdf)

95 CEAV and Fundación Arcoiris (2018) Diagnóstico Nacional sobre la discriminación a las personas LGBTI en México. Derecho al trabajo. Available at:

[https://www.gob.mx/cms/uploads/attachment/file/438166/Diagn\\_sticoNacionalTrabajo\\_CEAV\\_OK.pdf](https://www.gob.mx/cms/uploads/attachment/file/438166/Diagn_sticoNacionalTrabajo_CEAV_OK.pdf)

96 CEAV and Fundación Arcoiris (2018) Diagnóstico Nacional sobre la discriminación a las personas LGBTI en México. Derecho a la seguridad y acceso a la justicia. Available at:

[https://www.gob.mx/cms/uploads/attachment/file/459446/FINAL.\\_Diagn\\_sticoNacionalJusticia\\_1.pdf](https://www.gob.mx/cms/uploads/attachment/file/459446/FINAL._Diagn_sticoNacionalJusticia_1.pdf)

97 Letra S (2019). Violencia extrema. Los asesinatos de personas LGBTTTT en México: los saldos del sexenio (2013-2018). Available at: <http://www.letraese.org.mx/wp-content/uploads/2019/05/Informe-cr%C3%ADmenes-2018-v2.pdf>

98 VV.AA. (2020) Observatorio Nacional de crímenes de odio contra personas LGBT. Available at: <http://www.fundacionarcoiris.org.mx/agresiones/panel>

statements from religious leaders blaming people who are LGBT and women who decide to abort for what is happening<sup>99</sup>.

### **Recommendations:**

- Mexico: To promote the fulfillment of the UPR 2018 recommendations through the implementation of actions to eliminate violence against the LGBT community. This includes hate speech; start official records on hate crimes disaggregated by SOGIE, committing to the right to truth and justice through the recognition and naming of identities and to recognize the right of refuge for persons belonging to the LGBT community.
- European Union: Support LGBT rights organizations, through the Embassies of EU member countries in Mexico, by accompanying their activities, creating specific grants to strengthen and sustain their projects and daily work. Establish mechanisms for monitoring and surveillance of public entities for the protection of human rights in Mexico, in order to strengthen them and promote their permanence.

### **SIGNATORIES**

Artículo 19 Mexico

Legal Assistance for Human Rights (Asilegal)

Fray Bartolomé de Las Casas Center for Human Rights (Frayba)

Fray Matias de Cordova Human Rights Center

Miguel Agustín Pro Juárez Human Rights Center

Tlachinollan Human Rights Center

Women's Communication and Information (CIMAC)

Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH)

Consortium for Equity and Parliamentary Dialogue, Oaxaca

Equis Justice for Women

Arcoiris Foundation

Selected Reproduction Information Group (GIRE)

I(dh)reas Strategic Litigation

Mexican Institute of Human Rights and Democracy (IMDHD)

Institute for Studies in the Accusatory Penal Process (INEPPA)

The Swedish Movement for Reconciliation (SweFOR Mexico)

Peace Brigades International, Mexico (PBI Mexico)

Project on Organization, Development, Education and Research (PODER)

Network for Children's Rights in Mexico (REDIM)

Services and Advice for Peace A.C. (SERAPAZ)

International Service for Peace (SIPAZ)

CSO area

Composed of Artículo 19, World Association of Community Radio Broadcasters, Mexico (AMARC Mx); Migrant House Saltillo; Mexican Center for Environmental Law (CEMDA); Human Rights Center Zeferino Ladrillero (CDHZL); National Center for Social Communication (Cencos); Mexican Commission for the Defense and Promotion of Human

<sup>99</sup> Tapia, Jacqueline (2020) Dios pide que reflexionen. *La Razón de México*, April 5th. Available at: <https://www.razon.com.mx/opinion/jacqueline-lhoist-tapia-dios-pide-que-reflexionen/>

Rights (CMDPDH); Communication and Information of Women A.C. (CIMAC); Consortium for Parliamentary Dialogue and Equity, Oaxaca A.C. ; Institute of Environmental Law A.C. (IDEA); JASS Associated for the Just; National Network of Civil Human Rights Organizations All Rights for All (RedTDT); SMR Scalabrinianas, Mission with Migrants and Refugees; Services and Advice for Peace (SERAPAZ). Area OSC is accompanied by Peace Brigades International (PBI) and Amnesty International's Mexico section.

National Network of Civil Human Rights Organizations All Rights for All (Red TDT)  
Composed of The Hidalguense Academy of Education and Human Rights A.C. (ACADERH) (Hidalgo); LGBT Agenda (State of Mexico); Alliance Sierra Madre, A.C. (Chihuahua); Aluna Psycho-social Accompaniment, A.C. (Mexico City), Legal Assistance for Human Rights, A.C. (AsiLegal) (Mexico City); Jalisco Association to Support Indigenous Groups, A.C. (AJAGI) (Guadalajara, Jal.); "Miguel Hidalgo" Association for the Defense of Citizen Rights (Jacala Hgo.); Bowerasa, A.C. "Making the Way" (Chihuahua, Chih.); Migrant House Saltillo (Saltillo, Coah.); Catholics for the Right to Decide, A.C. (Mexico City); Training and Defense Center for Human and Indigenous Rights, Civil Association (CECADDHI) (Chihuahua); Center "Fray Julián Garcés" Human Rights and Local Development, A.C. (Tlaxcala, Tlax.); Worker Support Center, A.C. (CAT) (Mexico City); Chiapas Women's Rights Center (San Cristóbal de Las Casas, Chis.); Don Sergio Human Rights Center (Jiutepec, Mor.); Human Rights Center "Fray Bartolomé de Las Casas", A.C. (San Cristóbal de Las Casas, Chis.); Center for Human Rights "Fray Francisco de Vitoria O.P.", A.C. (Mexico City); Human Rights Center "Fray Matías de Córdova", A.C. (Tapachula, Chis.); Center for Human Rights "Juan Gerardi", A.C. (Torreón, Coah.); Center for Human Rights "Miguel Agustín Pro Juárez", A.C. (Mexico City); Mountain Human Rights Center, Tlachinollan, A.C. (Tlapa, Gro.); Center for Women's Human Rights (Chihuahua); Center for Human Rights of the Peoples of the South of Veracruz "Bety Cariño", A.C. (Tatahuicapan de Juárez, Ver.); Digna Ochoa Human Rights Center, A.C (Tonalá, Chis.); Paso del Norte Human Rights Center (Cd. Juárez, Chih.); Toaltepeyolo Human Rights Center (Orizaba, Veracruz); Victoria Diez Human Rights Center, A.C. (León, Gto.); Zeferino Ladrillero Human Rights Center (CDHZL) (State of Mexico); Center of Indigenous Rights "Flor y Canto", A.C. (Oaxaca, Oax.); A.C. Center for Indigenous Rights (Bachajón, Chis.); Antonio de Montesinos Center for Social and Cultural Studies, A.C. (CAM) (Mexico City); Civic Proposal Research and Training Center A.C. (Civic Proposal) (Mexico City); Justice for Peace and Development Center, A.C. (CEPAD) (Guadalajara, Jal.); Center for Migrant Rights (Mexico City); Center for Reflection and Labor Action (CEREAL-Guadalajara) (Guadalajara, Jal.); Diocesan Center for Human Rights "Fray Juan de Larios", A.C. (Saltillo, Coah.); Youth Center Generating Dignity (Comalcalco, Tabasco); Kalli Luz Marina Center (Orizaba, Ver.); Mexican Center for Environmental Law (CEMDA) (Mexico City); Centro Mujeres (La Paz, BCS.); Regional Center for the Defense of Human Rights José María Morelos y Pavón, A.C. (Chilapa, Gro.); Regional Center for Human Rights "Bartolomé Carrasco", A.C. (BARCA) (Oaxaca, Oax.); University Center for Dignity and Justice Francisco Suárez, S.J. (CUDJ) (Guadalajara, Jal.); Alternative Social Science, A.C. KOOKAY (Mérida, Yuc.); Lagunera Citizenship for Human Rights, A.C. (CILADHAC) (Torreón, Coah.); Collective against Torture and Impunity (CCTI) (Mexico City); Collective Education for Peace and Human Rights, A.C. (CEPAZDH) (San Cristóbal de Las Casas, Chis.); Northwest Citizens' Commission on Human Rights (Mexicali, Baja California); Commission on Human and Labor Rights of the Tehuacán Valley, A.C. (Tehuacán, Pue.); Commission for Solidarity and Defense of Human Rights, A.C. (COSYDDHAC) (Chihuahua, Chih.); Regional Commission of Human Rights "Mahatma Gandhi", A.C. (Tuxtepec, Oax.); Committee Cerezo (Mexico City); Monsignor Romero Christian Solidarity

Committee (Mexico City); Committee for the Defense of Indigenous Freedoms (Palenque, Chis.); Committee for the Comprehensive Defense of Human Rights Gobixha A.C. (CODIGODH) (Oaxaca, Oax.); Human Rights Committee "Fr. (Ocosingo, Chis.); Human Rights Committee" Sierra Norte de Veracruz ", AC (Huayacocotla, Ver.); Human Rights Committee Ajusco (Mexico City); Human Rights Committee of Colima No Governmental AC (Colima, Col.); Comalcalco Human Rights Committee, AC (CODEHUCO) (Comalcalco, Tab); Tabasco Human Rights Committee, AC (CODEHUTAB) (Villahermosa, Tab); Human Rights and Orientation Committee Miguel Hidalgo , AC (Dolores Hidalgo, Gto.); Committee of Relatives of the Detained-Disappeared "Until they are found" (Mexico City); Sergio Méndez Arceo Committee for Human Rights of Tulancingo, Hgo AC (Tulancingo, Hgo.); Technical Consulting Comunitaria AC (CONTEC) (Chihuahua); El Caracol, AC (Mexico City); Migrant's Stay González y Martínez, AC (Querétaro, Qro.); Civic Front Sinaloense. Ministry of Human Rights (Culiacán, Sin.); Fundación para Justice and the Democratic State of Law (Mexico City); Indignation, AC Promotion and Defense of Human Rights (Mérida, Yuc.); Ignacio Ellacuria Institute of Human Rights, S.J. University Iberoamericana- Puebla (Puebla, Pue.); Mexican Institute of Human Rights and Democracy (Mexico City); Mexican Institute for Community Development, A.C. (IMDEC) (Guadalajara, Jal.); Justice, Human Rights and Gender, A.C. (Mexico City); La 72, Home-Shelter for Migrants (La 72) (Tenosique, Tabasco); Indigenous Women for the Conservation, Research and Use of Natural Resources, A.C. (CIARENA) (Oaxaca); Promotion of Economic, Social and Cultural Rights (PRODESCAC) (State of Mexico); Economic, Social and Cultural Rights Project (ProDESC) (Mexico City); Organization, Development, Education and Research Project (PODER) (Mexico City); Red Solidaria de Derechos Humanos, A.C. (Morelia, Michoacán); Alternative Response, A.C. Human Rights and Community Development Service (San Luis Potosí); Integral Inclusion Services, A.C. (SEIINAC) (Pachuca, Hgo.); Tequio Jurídico A.C. (Oaxaca, Oax.); One of Seven Migrating A.C. (Chihuahua, Chih.); HIVas as life (Guadalajara, Jal.); Mesoamerican Voices, Action with Migrant Peoples A.C. (San Cristóbal de las Casas, Chiapas).

## APPENDIX 1: CASE FILES

### FACT SHEET 1

#### CASE: MEXICAN STATE NEWS AGENCY, NOTIMEX

##### Prepared by : Article 19 Mexico & Central America

On May 12th, 2020, the organization Article 19, together with Signa Lab<sup>100</sup> from the Western Technological Institute for Higher Studies (Instituto Tecnológico y de Estudios Superiores de Occidente or ITESO) and Aristegui Noticias, published a report<sup>101</sup> that indicates that directives from the Mexican State News Agency (NOTIMEX) organize coordinated actions to attack journalists and former workers that they consider "adversaries".

The second report<sup>102</sup>, published on June 18th, contains videos, testimonies and images as evidence of the attacks orchestrated by NOTIMEX director, Sanjuana Martínez Montemayor, using false accounts - and even official ones - against critics of her management, by ex-agency workers or outsiders. The evidence reveals the use of two chats: "Fiesta de Halloween" (Halloween Party) and "SOS", whose communications record threats against those who refuse to participate in a "network strategy" armed by NOTIMEX officials, where journalists, ex-officials and critics are attacked.

Article 19 interviewed 14 people with direct knowledge of what goes on inside the NOTIMEX newsroom. The testimonies coincide that Martínez Montemayor has instructed

<sup>100</sup> Signa Lab is an interdisciplinary laboratory of Instituto Tecnológico y de Estudios Superiores de Occidente (ITESO) that works for the production and management of free knowledge, network analysis and an open repository.

<sup>101</sup> Artículo 19 (2020) Directiva de NOTIMEX ataca periodistas y organiza campañas de desprestigio en redes sociales. Available at: <https://articulo19.org/directiva-de-notimex-ataca-periodistas-y-organiza-campanas-de-desprestigio-en-redes-sociales/>

<sup>102</sup> Artículo 19 (2020) La "guerra está en Twitter": evidencia confirma tácticas de la dirección de Notimex para atacar periodistas. Available at: <https://articulo19.org/directiva-de-notimex-ataca-periodistas-y-organiza-campanas-de-desprestigio-en-redes-sociales/>

her staff to use personal accounts and to create false profiles in order to defend her management at the head of the News Agency as well as to harass journalists.

Given the revelations that were made, far from finding a diligent and effective response from the Mexican State, the human rights defenders belonging to Signa Lab and Article 19, as well as the journalist Carmen Aristegui and her team, have been the target of defamation by the NOTIMEX management. They have been victims of systematic and sustained attacks through social networks, violating the security of those who make up these organizations and media.

The attacks escalated on June 19th when Martínez Montemayor, the head of NOTIMEX, posted a threat on her Twitter account to initiate legal action against those who have conducted the investigations in question: "I inform you that I have left it up to my lawyers to take legal action against those who are responsible for the damage to my image. As a citizen and as a journalist I have the right to defend myself against the slander and the smear campaign launched more than a month ago by shadowy interests". This contravenes international standards of freedom of expression and human rights since criminal law should not be used against journalists and civil society organizations that report abuses of power by public servants.

The NOTIMEX case shows a misuse of public resources and abuse of power, as its head coerces and intimidates her team to design and execute campaigns of hate, discredit and slander against journalists, ex-collaborators and people whom Sanjuana Martínez considers adversaries. She should be removed from her position while judicial investigations are ongoing to determine her legal responsibilities for these actions.

#### **Pending activities towards access to justice**

- For the Government to inform on what measures it will take from now on to guarantee that the management of the State News Agency will not be used for purposes other than those granted by law, as well as to avoid the use of criminal law to attack those who have highlighted and made known what is happening inside the News Agency.
- For the Secretary of Public Function to inform on the status of the complaint that Article 19 presented on June 5th, 2020, which requests the investigation of the possible use of public resources by NOTIMEX.
- For the Mexican government to provide the necessary guarantees so that NOTIMEX workers and employees can denounce – publicly and without fear of reprisals - the illegal orders they have received from the director to denigrate journalists.

**CASE: LYDIA CACHO****Prepared by : Article 19 Mexico & Central America**

Lydia Maria Cacho Ribeiro, a journalist and human rights defender, suffered acts of psychological and physical torture, sexual harassment and intimidation, death threats, verbal and physical violence, as well as acts of gender-based discrimination during and after her arbitrary detention on December 16th, 2005. She was transferred from Quintana Roo to Puebla, because her detention was based on a complaint from businessman Kamel Nacif Borge for the crime of defamation in the State of Puebla. It is likely that this was done in collusion with high Mexican executive and judicial authorities, with the intention of punishing her for the exercise of freedom of expression in the book "The Demons of Eden".

After these events, the journalist presented complaints for torture, arbitrary detention and threats, as she was harassed for demanding justice for the torture she suffered.

In the investigation of the facts, the Human Rights Committee of the United Nations System concluded in its final decision of Communication 2767/2016 that the journalist's rights had been violated. Therefore, the Mexican State should 1) Carry out an impartial, prompt and exhaustive investigation of the facts that were reported 2) Process, judge and punish with appropriate penalties the persons found responsible, 3) Offer appropriate compensation, 4) Adopt measures of non-repetition.

In April 2019, the Attorney General's Office requested arrest warrants against the people who had participated in the planning and execution of Lydia Cacho's torture, all of them belonging to a network of powerful people: Mario Marín (former Governor of Puebla - intellectual author), Kamel Nacif (businessman), Adolfo Káram (former Chief of the Judicial Police), as well as high-ranking police officers and ministerial police who carried out the plan to affect the journalist's integrity.

In July 2019, the journalist was victim of a burglary at her home in Quintana Roo. She was not there at the time, but was victim of the theft of sensitive information from her investigation on pedophiles, as well as work material, and one of her dogs was killed.

#### **Pending activities towards access to justice**

- Detention of Mario Marín, Kamel Nacif and Adolfo Káram, as persons allegedly responsible for the acts constituting torture against Lydia Cacho on December 16th and 17th, 2005.
- Identification of those materially and intellectually responsible for the burglary of the journalist's home on July 21st, 2019 and for them to be brought before the authorities.
- For the Attorney General's Office, through the Special Prosecutor's Office for Crimes against Freedom of Expression, to investigate not only the acts that implied torture but also the burglary, in a comprehensive and coordinated manner. They could result from the same contrivance to punish the journalist, taking advantage of the political and economic power enjoyed by its perpetrators.

#### **FACT SHEET 3**

#### **CASE: PATTERN OF SYSTEMATIC ATTACKS AGAINST WOMEN HUMAN RIGHTS DEFENDERS (CONSORTIUM, OAXACA)**

**Prepared by: Consortium for Parliamentary Dialogue and Equity, Oaxaca (Consortio para el Diálogo Parlamentario y la Equidad Oaxaca)**

The Consortium for Parliamentary Dialogue and Equity, Oaxaca (Consortium Oaxaca) is a feminist organization, dedicated to the promotion of women's rights as well as the protection of human rights defenders in Oaxaca, Mexico and the Mesoamerican region for the last 17 years.

There is a systematic pattern of attacks against the organization. Since the current governor, Alejandro Murat, took office (2016), in addition to constant defamation, surveillance and wiretapping, the organization has suffered five burglaries at its office and at private homes. It should be noted that no progress has been made with regard to the charges made for these burglaries.

During 2020, the organization registered at least 21 attacks against the organization and/or its members, the most frequent being defamation and hate speech in social networks and media. These attacks lead to delegitimization and incite violence. The most recent took place on June 15th, 2020 when a black bag containing pieces of meat, apparently an animal head, was found at the door of the organization headquarters. Next to the bag was a piece of cardboard with the inscription "Chill the fuck out slut, next time it's yours", signed CJNG [Jalisco New Generation Cartel]. A complaint was presented to the General Prosecutor of the Republic's Office.

It is important to point out that since 2012, Consortium Oaxaca has benefited from

precautionary measures from the Office of the Human Rights Ombudsman for Oaxaca, which have never been fully complied with. Hence, in view of the increased level of risk and lack of guarantees, after the attack of June 15th, 2020, the organization requested its incorporation into the National Mechanism for the Protection of Human Rights Defenders and Journalists.

The June 15th threat occurred in the context of Consortium accompaniment of the campaign "Until Justice Comes", which aims to clarify the truth about the femicide of María del Sol Cruz Jarquín, daughter of defender Soledad Jarquín. She was murdered on June 2nd, 2018. Attacks against Soledad Jarquín have also intensified as a result of the campaign.

**It is urgent to guarantee the protection of members of the organization Consortium Oaxaca and of Soledad Jarquín Edgar; as well as the prompt and diligent investigation of the death threat against the organization.**

#### FACT SHEET 4

#### **CASE: ARBITRARY DETENTION, TORTURE AND OTHER SERIOUS HUMAN RIGHTS VIOLATIONS OF DAMIÁN GALLARDO MARTÍNEZ**

**Prepared by: Consortium for Parliamentary Dialogue and Equity, Oaxaca (Consortio por el Diálogo Parlamentario y la Equidad Oaxaca)**

Damián Gallardo Martínez is an indigenous Ayuujk education defender. On May 18<sup>th</sup>, 2013, they entered his home with extreme violence to arbitrarily detain him. And he was held incommunicado for 30 hours. Since then, he has been a victim of torture, among other serious and repeated violations of his rights.

He spent five years and seven months in CEFERESO No. 2 in Puente Grande, Jalisco, without sentence. On December 28<sup>th</sup>, 2018, acquittal was ordered.

The serious violations of his rights have been recognized by national and international organizations, among others:

- CNDH (National Human Rights Commission) Recommendation 5/2018.
- UN Working Group on Arbitrary Detention Opinion 23/2014.
- The case has been presented to the UN Committee Against Torture.
- A petition for comprehensive reparation of the damage has been filed with CEAV (Executive Commission for Attention to Victims).

**Seven years after the serious violations, they remain unpunished and unrepaired; results in the investigations and punishment of those responsible for the torture and other violations committed are urged, as well as full reparation for the damage caused.**

## FACT SHEET 5

### **CASE: FREDY GARCÍA RAMÍREZ, CRIMINALIZATION OF THE DEFENSE OF THE LAND AND THE TERRITORY**

**Prepared by: Consortium for Parliamentary Dialogue and Equity Oaxaca (Consortio por el Diálogo Parlamentario y la Equidad Oaxaca)**

Fredy García Ramírez is a 28-year-old indigenous Zapotec. He served as spokesperson for the Committee for the Defense of Indigenous Rights (CODEDI) until his arbitrary detention on November 6th, 2019.

This arbitrary detention occurred as part of a pattern of serious attacks and criminalization against the CODEDI organization, a leading indigenous organization in the Sierra Sur and Costa de Oaxaca for its defense of the rights to self-determination of indigenous peoples and defense of land and the territory, against a background of increasing megaprojects in the region.

During 2018 and to this date, including this case, there have been: five murders<sup>103</sup>, six arbitrary detentions, three burglaries and robberies, two attempted murders, constant threats against CODEDI members and the militarization of the area in which its training center is located. To date, the killings and other attacks remain unpunished.

International organizations have ruled on the attacks against CODEDI: on October 5th, 2018, a joint statement<sup>104</sup> was issued by four UN Special Procedures expressing concern

<sup>103</sup> On February 12th, 2018, Alejandro Antonio Díaz Cruz, Ignacio Basilio Ventura Martínez and Luis Ángel Martínez were killed on the road when they were returning from a meeting with the State Government; On July 17th, 2018, Abraham Hernández González, CODEDI Regional Coordinator in the Sierra Sur, was murdered after they entered his home located in the community of Salchi, San Pedro Pochutla; and on October 25th, 2018, Noel Castillo Aguilar was shot in Barra de la Cruz, Santiago Astata.

<sup>104</sup> Joint statement available at:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24055>

about the documented murders and arbitrary detentions against CODEDI, which was dismissed by the Mexican State.

Likewise, on July 26th, 2019, members of the CODEDI Political Commission, including Fredy García Ramírez, were incorporated into the National Mechanism for the Protection of Human Rights Defenders and Journalists, and to date no measures have been implemented to guarantee their safety, culminating with the arbitrary detention of Fredy García.

Fredy García is currently under informal pretrial detention regime, linked to a trial accused of assault, robbery and bodily harm. A date was set for the interim hearing for March 2020; however, it was suspended due to the health emergency and it is uncertain when the hearings would resume.

He is being held in Tanivet prison, Tlacolula Oaxaca, where he has denounced the lack of adequate food and medical attention, arbitrary limitations on visiting times, and ill-treatment. Similarly, in the context of the pandemic, as of May 15th, 2020, he reported a lack of medical attention for a high number of people with symptoms of COVID-19. He was finally seen to on June 2nd, 2020<sup>105</sup>. To date, there is no official information on the inmates' health situation and possible outbreak of COVID-19, nor any measures that have been taken to address this situation.

**The release of Fredy García, the cessation of the attacks, and the punishment of those responsible for the five murders of CODEDI members are urgent. It is also urgent that the authorities report on the situation and measures taken in the Tanivet prison in the context of the pandemic.**

<sup>105</sup> <https://consorciooaxaca.org/comunicado/>

**CASE: SAN MATEO DEL MAR COMMUNITY DEFENDERS, ARMED  
ATTACKS AND HIGH RISK FOR DEFENDERS**

**Prepared by: Consortium for Parliamentary Dialogue and Equity Oaxaca (Consortio por el Diálogo Parlamentario y la Equidad Oaxaca)**

Since May 2nd, 2020, the conditions of violence have worsened and there have been three armed attacks in San Mateo del Mar. This situation occurs in the context of the recent elections of October 2019, a process in which Bernardino Ponce Hinojosa was elected as municipal president and which was full of irregularities, violating guarantees of the Ikoots people and the traditional internal regulatory system. The election unleashed a conflict that to date has not been addressed by the authorities of the Government of the State of Oaxaca, despite repeated demands from the population and community agencies.

Since May 2nd, warnings have been given about the situation without the necessary attention being provided by the responsible authorities, hence the situation of violence continued to escalate. On June 21st, an armed attack was reported in which at least 15 people were killed and another 30 were injured.

These events also occur in a campaign of uncertainty, gossip, defamation and delegitimization against defenders, particularly women who defend their rights as Ikoots indigenous people and who have opposed the imposition of wind farm megaprojects and the Trans-isthmian Corridor in the area.

The different levels of government must guarantee human rights, the cessation of violence, as well as carry out a prompt and diligent investigation, including into the alleged participation of the municipal president in the events.

**We highlight the high risk to defenders in the community.**

**CASE: PABLO LÓPEZ ALAVEZ, CRIMINALIZATION OF THE DEFENSE OF WATER**

**Prepared by: Consortium for Parliamentary Dialogue and Equity, Oaxaca  
(Consortio para el Diálogo Parlamentario y la Equidad Oaxaca)**

On August 15TH, 2010, the Zapotec indigenous Human Right Defender Pablo López Alavez was arbitrarily detained with excessive violence in the vicinity of the Río Virgen River in his community of San Isidro Aloapam, part of San Miguel Aloapam, Ixtlán.

At the time of his arrest, Pablo López had a history of more than 20 years of experience in defense of his community, having held various community positions. It led him to represent it in the processes of speaking out against illegal logging and to demand attention to the conservation of his community's forest. The defender was detained in a particularly violent manner by a group of more than 15 hooded men, without an arrest warrant, and assaulting the relatives who were with him.

As a part of the serious consequences of this criminalization process, it is worth mentioning the forced displacement of his wife and Human Right Defender Yolanda Pérez Cruz, as well as the constant and serious threats against the defender and his relatives.

Such harassment has led to the issuance of precautionary measures in his favor through the Human Rights Defender of the People of Oaxaca. These measures have still not been met, which has resulted in a particularly serious process of racist discrimination and revictimization.

The serious violations committed against the defender and his family were recognized internationally with the issuance of United Nations Working Group on Arbitrary Detention Opinion 23/2017<sup>106</sup> in June 2017. This opinion is one of six issued by the Working Group on cases of criminalized defenders in Oaxaca, the majority of them indigenous and all of them showing a similar pattern of torture, solitary confinement and other serious human rights violations. In their Opinion 23/2017, the UN experts call for the immediate release

<sup>106</sup> [https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session78/A\\_HRC\\_WGAD\\_2017\\_23.pdf](https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session78/A_HRC_WGAD_2017_23.pdf)

of Pablo López as well as the due compensation for the damages he suffered. Despite this, three months after the opinion was issued, and after a process riddled with irregularities, he was sentenced to 30 years in prison, which was confirmed in November 2018.

In 2020, a court injunction was granted against the conviction. The retrial has been delayed due to the COVID-19 pandemic.

**The resolution to restart the trial is urgent, which should result in the release of the human rights defender Pablo López Alavez. Guarantees are also urgent for Yolanda Pérez Cruz and the defense of land and territory in Oaxaca.**

## FACT SHEET 8

### **CASE: MARÍA DEL SOL CRUZ JARQUÍN, FEMINICIDE IN A CONTEXT OF POLITICAL VIOLENCE**

**Elaborated by: Consortium for Parliamentary Dialogue and Equity, Oaxaca (Consortio para el Diálogo Parlamentario y la Equidad Oaxaca)**

On June 2nd, 2018, María del Sol Cruz Jarquín, a 27-year-old photojournalist, was the victim of femicide in a context of political violence. She worked as head of communication for a department of the Secretariat for Indigenous Affairs (SAI). As of April 16th, 2018, she was illegally commissioned and, against her will, was sent by the head of the SAI to cover his brother's electoral campaign: Hageo Montero López, candidate for the municipal presidency of Juchitán. In this context, the young photojournalist was killed with high-caliber weapons, along with the candidate for councilor, Pamela Terán Pineda, and a youth, Adelfo Guerra Jiménez.

Since the murder of María del Sol, her mother, Soledad Jarquín Edgar, has fought tirelessly to obtain justice for her daughter. She has filed all the corresponding legal means; she has met the demands of the State by providing the necessary evidence and documentation at all times to expedite the investigations; however, she has encountered cover-up and high-level political resistance, which have resulted in a lack of access to justice.

Soledad Jarquín filed a complaint with the Attorney General of the State of Oaxaca. An investigation file was opened, which was taken to court when one of the alleged perpetrators was arrested two months after the femicide. However, as has been pointed out by the State Superior Court of Justice, the investigation lacks a gender perspective and due to the deficiencies of the Prosecutor's Office in opening the file, the alleged perpetrator was not indicted, leaving all the doors open for impunity in this case. These features had the same impact on the poor compilation of the file to indict another alleged perpetrator in June 2019.

In addition, the State Attorney General has been characterized for denying attention to the defender, for publicly disqualifying her, for making defamatory claims about her

mental health status and leaving her in high vulnerability by unilaterally withdrawing protection measures<sup>107</sup>.

The defender also filed other appeals, which have not made any progress either. The electoral complaint ended with the imposition of a fine on Hageo Montero López, which to date has not been paid without resulting in any sanction. The electoral complaint and the administrative procedure are stopped despite having all the necessary elements to indict him. There is also no progress in the file opened with the Human Rights Defender of the People of Oaxaca.

On the other hand, the demand for justice made by Soledad Jarquín has meant a serious increase in her risk situation; hence, she was included in the National Mechanism for the Protection of Human Rights Defenders and Journalists.

In the context of COVID-19, the planned hearing regarding a suspect related to the process has been suspended. Hence, the judicial process has stopped, but not the attacks against those who demand justice for the femicide, led by Soledad Jarquín Edgar with the accompaniment of Consortium Oaxaca.

It is urgent to advance in the investigations and punishment of the material and intellectual authors of the femicide of María del Sol Cruz Jarquín and other crimes committed.

<sup>107</sup> *Página3* (2019) Dice Fiscal que no cede a presiones que manipulan información con objetivos personales económicos y políticos. Available at: <https://pagina3.mx/2019/06/dice-fiscal-que-no-cede-a-presiones-que-manipulan-informacion-con-objetivos-personales-economicos-y-politicos/>.

Retira Fiscalía medidas de seguridad a la periodista Soledad Jarquín. Available at: <https://mymnoticias.com/2019/06/12/retira-fiscalia-medidas-de-seguridad-a-la-periodista-soledad-jarquín/>.

**CASE: FEMINICIDE OF ALONDRA GUADALUPE GONZÁLEZ ARIAS****Prepared by: Amnesty International Mexico****Summary of the case**

Alondra Guadalupe González Arias, 20, lived in Tlajomulco de Zúñiga, Jalisco. On March 10th, 2017, Alondra was found dead with obvious signs of violence in the apartment where she had lived with her ex-partner. Alondra had given birth to her second baby ten days earlier.

Alondra's death could have been prevented. The multiple omissions by the state of Jalisco contributed to her death.

**Description of the case**

Alondra Guadalupe González Arias, a 20-year-old woman, was found dead on the morning of March 10th, 2017 in the apartment she shared with her partner in Tlajomulco de Zúñiga, Jalisco.

According to information received by Amnesty International, Alondra Guadalupe González Arias filed a complaint for ill-treatment by her partner on February 6th, 2017. In response to Alondra's complaint, on February 6th, an agent from the Public Ministry of the Center of Justice for the Women of Jalisco issued protection orders for a duration of 30 days. According to available records, neither the authorities in charge of protecting Alondra nor the alleged aggressor were notified about the protection orders. The State of Jalisco failed to comply with its due diligence duty to ensure the activation and implementation of Alondra's protection orders.

In April 2019, the State Human Rights Commission of the State of Jalisco issued Recommendation 05/2019 in which it states that the State of Jalisco could have prevented the femicide of Alondra. In that recommendation, the Human Rights Commission establishes a series of measures to fully compensate the damage to Alondra's mother, daughter and son. To date, not all the measures that guarantee the non-repetition of the events and effectively prevent femicides in Jalisco have been implemented.

**Requests to the Mexican State**

1. Governor of the State of Jalisco, Enrique Alfaro Ramírez: to comply with all the measures included in Recommendation 05/2019, and to provide comprehensive reparation of the damages for the Alondra family, ensuring guarantees of non-repetition.

**More information**

<https://amnistia.org.mx/contener/index.php/alondra/>

**Accompanying organizations**

Amnesty International Mexican Section and the Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM)

**FACT SHEET 10**

**CASE: FEMINICIDE OF KARLA PONTIGO**

**Prepared by: Amnesty International Mexico**

**Summary of the case**

Karla Pontigo was a 22-year-old nutrition student from San Luis Potosí, who was found on October 28th, 2012 with a leg injury and bleeding to death at the place where she worked on weekends. The State Attorney General's Office concluded that her death was an accident, despite the fact that she had several injuries and blows, and that the autopsy carried out recorded evidence of sexual assault. Her family has been seeking justice ever since. Karla's violent death must be investigated as femicide.

**Description of the case**

Karla Pontigo, 22, was a victim of femicide in San Luis Potosí. On the night of October 28th, 2012, her brother went to look for her at the bar where she worked and, after forcing entry, found her on the floor, seriously injured and unable to communicate. Karla died in the early hours of October 29th in the hospital due to serious injuries.

The investigation into Karla's violent death presented various irregularities in accordance with recommendation 55/2015 of the National Human Rights Commission (CNDH)<sup>108</sup>.

- The crime scene was not secured and this allowed the area to be cleaned.
- Pictures were not taken of the crime scene.
- The chain of custody of the samples and tests was not protected.
- Evidence that could establish whether Karla had been sexually assaulted was lost.
- The family was denied access to the file from the outset.
- Evidence of sexual harassment presented by the mother was not taken into account.
- The case was not investigated with a gender perspective.

Despite everything, the family continued to fight for justice and Karla's case was brought to the National Supreme Court of Justice on July 1st, 2015, to be resolved four years later, on

<sup>108</sup> Available at: <https://www.cndh.org.mx/documento/recomendacion-552015>

November 13th, 2019. In its final decision, the Court declared that Karla's death should be investigated with a gender perspective and that the authorities that denied the family the right to due process and access to the truth should be investigated and tried.

The Court's decision is, after eight years of struggle, a great achievement for the family. However, the authorities have not yet carried out the necessary steps to comply with the Court's Judgment and the recommendation of the CNDH.

#### **Requests to the Mexican State**

1. To the Attorney General of the State of San Luis Potosí, Federico Arturo Garza Herrera: To comply with the sentence of the National Supreme Court of Justice and to investigate the murder of Karla as femicide.
2. Governor of the State of San Luis Potosí, Dr. Juan Manuel Carreras López: Comprehensive compensation for the damage to Karla's family and guarantees of non-repetition.

#### **More information**

<https://amnistia.org.mx/contener/index.php/karla-pontigo-fue-victima-de-feminicidio/>

#### **Accompanying organizations**

Amnesty International Mexican Section and Foundation for Justice and the Democratic Rule of Law

## **FACT SHEET 11**

<b>CASE: MAYA TRAIN</b>
<b>Prepared by: Indignation, Promotion and Defense of Human Rights, A.C. (Indignación, Promoción y Defensa de los D.H., A.C.)</b>
<p>In December 2018, the development plan called "Maya Train" was announced. This project proposes the construction of road and rail infrastructures presented as "the engine of real estate, commercial and tourism development in the Yucatan Peninsula". The project includes, among other things, 1,460 kilometers of medium speed railroad, several railway stations, road infrastructure, aqueducts, as well as new population centers and development poles, which will affect more than 50 municipalities in five states of Southeastern Mexico (Chiapas, Tabasco, Yucatan, Campeche and Quintana Roo)<sup>109</sup>, where various indigenous and peasant populations live, including the Ch'ol, Tseltal, Mayan, Akatekos, Awakatekos, Chuj, Ixil, Jakalteko, Kaqchikel, Q'eqchi, Q'anjob'ales, K'iches, Mame, and Maya peoples<sup>110</sup>.</p> <p>Despite being one of the main public works of the current government, this project has neglected to provide clear information to foresee the scope and effects that it will have not only on the affected indigenous peoples, but also on the biodiversity and their cultural heritage. In this regard, it should be noted that a report commissioned by the National Council for Science and Technology (Conacyt) has warned that the project will generate diverse environmental, social, economic, cultural and patrimonial effects. It will affect the high forests, swamps and savannas; the largest and best-preserved forest massifs in Mexico and Mesoamerica, areas with mangroves and other wetlands. These ecosystems will suffer disturbances</p>

<sup>109</sup>Information on the official website of the Maya Train. Available at: <http://www.trenmaya.gob.mx/>

<sup>110</sup> Information from the Mexican Government Atlas: <http://atlas.cdi.gob.mx/>

(degradation, fragmentation and deforestation) associated with the construction, circulation and development proposed by the Maya Train project<sup>111</sup>.

As an example of what is stated in this report, this project will impact one of the most biodiverse areas in the world, since the train will go through the Mayan jungle - the second green lung in Latin America after the Amazon - fragmenting it and causing irreversible negative impacts on biodiversity, soil and water. The project will affect the Mesoamerican Biological Corridor<sup>112</sup>, causing the degradation, deforestation and fragmentation of twenty-three protected areas at the state and federal levels due to their environmental importance. Some of these Natural Protected Areas are also World Heritage Sites (Sian Ka'an and Calakmul Biosphere). Seven Priority Terrestrial Regions and eleven Priority Hydrological Regions will also be affected. Some studies consider that this project could turn them into biologically inhospitable areas. The Yucatan Peninsula aquifer, which covers the state of Yucatan and almost all of the states of Campeche and Quintana Roo over 120,000 square kilometers, is the aquifer with the highest annual recharge in the country, making it a crucially important aquifer for the country.

Although the megaproject in question directly affects indigenous communities in at least four of the five states, it has been started without the participation of the native peoples and other sectors of society. There was no preliminary dialogue with the communities to take their opinion into account, ignoring their right to freely decide their future and their vision of development, in violation of self-determination, a constitutionally protected right. Although there were meetings between the National Fund for Tourism Development (FONATUR) officials and representatives from some affected communities, what appears certain is that these meetings did not meet the minimum standard of the right to consultation, as pointed out by the Office of the United Nations High Commissioner for Human Rights in Mexico.

**More information at the following links:**

<http://indignacion.org.mx/comunicado-sobre-el-proyecto-tren-maya-en-el-marco-de-la-visita-presidencial-para-su-promocion/>  
<http://indignacion.org.mx/el-tren-maya-observaciones-del-equipo-indignacion-tras-la-consulta-al-pueblo-maya-peninsular/>  
<http://indignacion.org.mx/290-organizaciones-colectivos-comunidades-y-personas-exigen-el-cese-de-las-actividades-del-proyecto-del-tren-maya-por-riesgo-sanitario-solicitan-garantias-de-participacion-equitativas-para-las-com/>  
<http://indignacion.org.mx/organizaciones-de-sociedad-civil-y-residentes-de-los-tres-estados-de-la-peninsula-solicitan-la-intervencion-de-la-cndh-por-avance-del-tren-maya/>

<sup>111</sup> National Council of Science and Technology Mayan Territories in the passage of the train: current situation and foreseeable risks, December 2019.

<sup>112</sup> <https://www.biodiversidad.gob.mx/corredor/corredorbiomeso.html>

<b>CASE: MORELOS INTEGRAL PROJECT</b>
<b>Prepared by: Peoples' Front in Defense of Land and Water in Morelos, Puebla, Tlaxcala FPDT PTM</b>
<p><b>Project description:</b> The Morelos Integral Project (MIP) began to be formulated in 2012. It is an energy project that consists of two combined cycle power plants of 620 Mw each, a 160 km 32" gas pipeline with a capacity to carry 320 Mcf of natural gas, two twelve-kilometer 26" and 12" aqueducts to carry water for consumption and discharge from the thermoelectric plant, and a 20 km high voltage network. The first thermoelectric plant was constructed by the Spanish company Abengoa and the second is in the process of construction; the operation of the thermoelectric generator corresponds to the Federal Electricity Commission (CFE); the gas pipeline is under a 25-year concession to the Spanish companies Elecnor and Enagas, through the Mexican stock market promotion company Gasoducto Morelos. In addition to energy production, the PIM aims at boosting industrial growth on the slopes of the Popocatepetl volcano in the states of Morelos, Puebla and Tlaxcala.</p> <p><b>Project Status:</b> The gas pipeline is fully built, the thermoelectric is at 99% completion, reporting technical failures in 2015 in the testing period, and the aqueducts have been stopped in the last 100 meters of their path since 2017. This is due to a protest by the <i>ejidos</i> against the use of their agricultural irrigation water for the operation of the thermoelectric station. The MIP faces social opposition in the affected territory organized by the Peoples' Front in Defense of Land and Water in Morelos, Puebla, Tlaxcala, <i>ejidos</i> of Ayala, Morelos and the Permanent Assembly of the People of Morelos. It also faces legal opposition through more than 15 agrarian and indigenous communities appeals that maintain the water supply for the thermoelectric plant suspended, as well as its discharge and the operation of the pipeline. The project failed to comply with the obligation to consult the affected indigenous communities and many of the authorizations of the <i>ejidos</i> were rigged and invented.</p> <p>The President of the Republic, Andrés Manuel López Obrador, promoted an illegal consultation on February 23rd and 24th, 2019 to obtain approval for the operation of the thermoelectric plant. Although the general vote approved the project by a majority of 9%, the counties and towns affected by the MIP said no to the thermoelectric plant and the gas pipeline. The imposition of the consultation, far from defusing the conflict, aggravated it with the murder of Samir Flores, a member of the community of Amilcingo, Morelos.</p> <p><b>Problems of the MIP:</b></p> <ul style="list-style-type: none"> <li>• The thermoelectric plant is 200 meters from the community of Huexca, its kindergarten and high school. During the test period, the noise from the thermoelectric plant prevented the community from enjoying a normal life and affected the population's nervous and hearing systems, mainly in childhood.</li> </ul>

- The proximity of Huexca will result in the polluting emissions from the thermoelectric plant to affect the respiratory systems, climate and vegetation of the community and the Eastern region of Morelos.
- The water used for the combined cycle of the thermoelectric plant is intended to come from the one held in concession by the more than 20 *ejidos* of the municipality of Ayala through ASURCO A.C. Using this water for the thermoelectric plant will result in the shortage of irrigation water that is insufficient for the *ejidos* in the region, the cradle of Mexican Zapatismo. Because of its climate, land quality, water and location, the East region of Morelos is an important agricultural producer in the country. The use of water for the countryside should receive greater priority than water for electricity generation or industrial use.
- The composition of the water discharged from the thermoelectric plant is unknown, and there are no specific studies of the impact that this water will have on the Cuautla River, where it is intended to be discharged. A Commission sent by UNESCO in February 2019, recommended to be careful with and to modify the high temperature of the water.
- The gas pipeline in Morelos was installed in risky zones around the Popocatepetl volcano, specifically the orange and lahar (volcanic lava) zones, considered as significant danger zones, according to Mexico's National Center for Prevention of Disasters (CENAPRED). The Popocatepetl is a high activity and high-risk volcano. More than four million people in five states live in its area of impact. The land use planning programs for the volcano restrict the highest risk infrastructure and the industrialization of the area which would lead to greater disaster risks and population growth. The gas pipeline cuts off the evacuation routes of the Popocatepetl volcano in the states of Morelos, Puebla and Tlaxcala and there are no protocols formulated with the population in case of emergencies.
- The earthquake of September 19th, 2017, whose epicenters were located near the area of the gas pipeline, affected the populations where the MIP is installed. Although the risk of disasters is greater, it has not been evaluated by the project.
- The entire territory of the MIP belongs to indigenous peoples, with a strong identity and veneration for the Popocatepetl volcano, a sacred hill for the communities. The project was imposed on the communities without consultation, disrespecting Article 29 of the United Nations Declaration on the Rights of Indigenous Peoples. It was instead imposed by force, through threats, dispossessions, unjust imprisonment, legal persecution, torture, intervention of the army, the state and federal police, closure of community radio stations and

the murder of defender Samir Flores Soberanes. The MIP's violation of human rights was documented by the Mexican National Commission for Human Rights (CNDH), Recommendation 003/2018, which recognizes that the human right to indigenous consultation of communities, among other rights, was violated.

- The industrialization process promoted by the PIM causes more difficulties for the peoples of the region by installing a second gas pipeline that surrounds the community of Huexca and climbs to the Popocatepetl volcano. Such is the case in Santa María Zacatepec, Puebla: the installation of the gas pipeline is resulting in the arrival of new industrial parks and industrial drainage projects that intend to contaminate the Metlapanapa River that runs through indigenous territory. In Atlixco, Puebla, there are potential risks of installing residential complexes next to the gas pipeline and the installation of industries in the region.
- There is a situation of serious risk for the defenders of territory against the MIP, as well as for the community radio stations in the region and for the affected peoples. There is pressure from the government, companies and organized crime.

**Public funds from the Spanish State:** The Morelos gas pipeline was built with public funds from the Spanish government, through the Fund for the Internationalization of Spanish Enterprise (FIEM), whose guidelines establish the obligation to respect human rights in projects financed by FIEM. However, when people from the communities asked FIEM staff to initiate an investigation into possible human rights violations, the Fund responded that it does not have protocols for cases of violations, which leaves the communities defenseless against those State funds. The lack of institutional structure for the Spanish State to guarantee compliance with its guidelines and the effective promotion, respect and protection of human rights confirms this situation.

**Requests:** Cancellation of the MIP and reparation of the damage to the communities, territories and human rights defenders affected by the project.

**Specific Requests:**

- Request the Mexican government to provide information on the possible violation of human rights in the Morelos Integral Project.
- Urge the Spanish government to design the necessary investigation and sanction protocols for cases where its funds cause human rights violations, taking as a first case the installation and operation of the PIM.
- To Promote protection actions and open spaces for dialogue and dissemination on the human rights violation in the MIP case, which may tend to contribute to the resolution of the conflict and protection of human rights.