



MEXICO: WHEN WORDS ARE NOT ENOUGH

THE HUMAN RIGHTS SITUATION ONE YEAR INTO THE NEW GOVERNMENT

AMNESTY
INTERNATIONAL



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President López Obrador at morning press conference. Photo: Pedro Gonzalez Castillo / Getty Images

National Guard deployment ceremony. Photo: Manuel Velasquez / Getty Images

Women during a protest against the sexual abuse of women in Mexico City 2019. Photo: Jair Cabrera/NurPhoto via Getty Images

National Guard improvising checkpoints in strategic locations south of Chiapas where thousands of migrants are transported in cargo vehicles. Photo: Encarni Pindado

Mother's Day demonstration for disappeared persons in Mexico City. March 10th

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Mother's Day demonstration for disappeared persons in Mexico City. March 10th

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Demonstration on International Women's Day, Mexico City. 8 March 2019 © Amnesty International

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1. EXECUTIVE SUMMARY

Amnesty International presents in this document an assessment of the human rights situation in Mexico one year after the administration of President Andrés Manuel López Obrador began. This new federal administration began on December 1, 2018. López Obrador was elected on 1 July 2018 for a six-year presidential term. The new government inherited a country with a deep human rights crisis. In previous years, crimes under international law such as torture, enforced disappearances and extrajudicial executions had increased with almost complete impunity; human rights defenders and journalists faced harassment, attacks and killings; violence was widespread throughout Mexican territory and thousands of people had been forcibly displaced in previous years.

Amnesty International continues to monitor and document the grave human rights situation in Mexico and is concerned to note that this crisis continues. This document focuses on four areas that the organization considers to be of paramount importance for the enjoyment of human rights by the country's population: security strategies and their impact on human rights, conditions to ensure a safe and favourable environment for civil society, gender-based violence against women and girls, and the situation of migrants and asylum seekers. However, these issues are not the only ones that the government of President Andrés Manuel López Obrador must urgently address, as they also include the rights of Indigenous peoples and the protection of their territories, the situation of violence faced by LGBTI people, access to sexual and reproductive rights, and the exercise of social and economic rights, among others.

SECURITY STRATEGIES AND HUMAN RIGHTS

The security policies and measures adopted by the government of President López Obrador have not departed substantially from the highly militarized security strategy, bolstered mainly by the then president Felipe Calderón, in 2006 with the start of the so-called "war on drugs". President López Obrador has continued to use the armed forces as the principal mainstay of public security in the country. In fact, a new National Guard approved by a constitutional reform as a civilian police body, was established mainly with members of the armed forces and put under the command of a then serving army general. This occurred even though under the law retired members of the armed forces remain military personnel and are subject to military discipline and chain of command.

The available information indicates that members of the armed forces have been transferred to the National Guard administratively yet remain attached to the armed forces and their duty of obedience to the military chain of command remains intact. Additionally, to date, their salaries have been paid by the armed forces.

The National Guard Law, passed in May 2019, granted the new force broad powers of criminal investigation, including to intercept private communications, and also authorized it to undertake immigration control duties.

The National Guard and the other security forces must act in accordance with the new National Law on the Use of Force. However, this legislation, which was signed into law following a process marked by unusual secrecy, contains serious flaws and is not in line with international human rights law and with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

The use of force and firearms must be based on the principles of legality, necessity, proportionality and accountability. The National Law on the Use of Force takes these principles into account yet does not do so adequately. In addition, the law incorrectly and insufficiently regulates permitted weapons and does not clearly state that any use of force must always be a last resort to which law enforcement officials may turn only when other less harmful methods have proved ineffective.

The use of torture and other ill-treatment, the dramatic number of disappearances and continuing arbitrary detentions remain the alarming reality of the human rights context in Mexico. The new government has taken some positive steps, including the process of developing, in conjunction with non-governmental organizations, a National Programme to Prevent and Punish Torture; the reinstatement of the National Search System for the disappeared; and the announcement that Mexico will accept the competence of the UN Committee on Enforced Disappearances to consider individual cases. However, these measures had yet to be implemented at the time this document was completed and will not be sufficient if they are not accompanied by comprehensive public policies, with specific substantial resources to address these issues, and the political will to recognize the seriousness of the human rights crisis.

Amnesty International notes with concern that during consideration of Mexico's periodic report by the UN Committee against Torture, the authorities adopted the same position as previous administrations and denied that torture was widespread in the country.

SPACE FOR CIVIL SOCIETY

During the government's first year in office, two laws were passed that unduly restrict and jeopardize the exercise of the freedom of peaceful assembly. The National Law on the Use of Force, which states that force will not be used against "peaceful public demonstrations or meetings with a lawful purpose", leaves the police to determine whether the purpose of an assembly is legitimate and, on this basis, deciding whether or not to use force. Under international human rights law, the use of force during a demonstration must be exceptional and should be directed only at people who use violence or to address an imminent threat.

In July, the southeast State of Tabasco approved an amendment to its penal code to provide for criminal sanctions against peaceful assemblies in which people express their opposition to the development or construction of public or private projects. President Andrés Manuel López Obrador expressed his agreement with these changes in the law.

Mexico continues to be a hostile place to practice journalism and defend human rights. During the first year of this new government, according to government figures, at least 23 human rights defenders and 15 journalists and other media workers have been killed. Many of those killed had alerted the authorities to the dangers they faced, and some were even beneficiaries of the Protection Mechanism for Human Rights Defenders and Journalists.

Given this context, Amnesty International is concerned that President López Obrador has used his press conferences to vilify the work of civil society organizations and to single out journalists and media outlets that have criticized his policies. These statements could be taken to suggest that the federal government is opposed to criticism and dissent and, in fact, contribute to creating a hostile environment for such individuals and organizations.

The new federal administration has accepted that the Protection Mechanism for Human Rights Defenders and Journalists is flawed and, therefore, requested that the Office of the United Nations High Commissioner for Human Rights undertake an assessment of the Mechanism. It is crucial that the government implement the recommendations of this assessment.

Amnesty International has observed a greater willingness by the federal authorities to react to threats

and attacks on human rights defenders, mobilizing resources and personnel promptly. However, these responses need to be institutionalized and work in all cases where they are necessary. Comprehensive strategies to prevent attacks against journalists and human rights defenders need to be developed and implemented.

GENDER-BASED VIOLENCE AGAINST WOMEN AND GIRLS

Gender-based violence against women and girls remains widespread in the country. In Mexico, two thirds of girls and women aged 15 or over have experienced gender-based violence at least once in their lives. An extreme form of such violence are killings targeting women because they are women, also known as femicides. An analysis of official figures shows that, in the 10 years from 2007 to 2017, the homicide rate for women almost tripled.

In recent years, Mexico has made progress in terms of the definition of femicide as a crime in criminal codes, but there are still flaws in the legal definitions used. The Mexican authorities do not yet produce reliable statistics on femicide and other forms of gender-based violence; even so, between January and September 2019, prosecutors had registered 748 victims of femicides. The previous year, according to official data, at least 3,548 women suffered violent deaths, which included both homicides and femicides.

Another form of gender-based violence is the prohibition and criminalization of abortion. In September, the government of President López Obrador took a positive step to guarantee the rights of women when he presented a bill that provided for an amnesty for women who had had an abortion. This measure, if adopted, would have the disadvantage that it applies only to cases judged before federal courts and most such cases are heard in state courts. Amnesty International calls on Mexico to repeal laws making abortion a crime in all jurisdictions.

MIGRANTS AND ASYLUM-SEEKERS

Although the new government began its administration by announcing a human rights approach in policies on migrants and asylum-seekers, humanitarian measures were quickly abandoned in favour of measures to restrict and tighten migration control.

In January and February 2019, Mexico received a series of caravans of migrants and asylum-seekers from Honduras and other Central American countries. In response, it implemented a new system of individual needs assessment and delivered 14,174 humanitarian visas at its southern border. However, within a few months there was a sharp decrease in the number of humanitarian visas granted.

On 7 June, the Mexican government reached an agreement with the US government to implement various immigration control measures, including the deployment of 6,000 members of the new National Guard at the southern Mexican border. The danger of use of the National Guard for migration control leading to discriminatory actions was highlighted by the United Nations Committee on the Elimination of Racial Discrimination. By the end of September, federal immigration authorities had detained 158,200 irregular migrants, including 46,476 children and adolescents, a significant increase compared to the previous year.

Migrants and asylum seekers were held in inadequate conditions; overcrowding was common in migrant detention centres and temporary holding facilities. At least three people died in the custody of the National Migration Institute (INM), including a 10-year-old girl. The INM continued to detain children and adolescents in migrant detention, although this is prohibited by Mexican law.

The Mexican Commission for Refugee Assistance (Comisión Mexicana de Ayuda a Refugiados, COMAR) received 54,377 asylum applications between January and September, compared to 29,648 for the whole of 2018. Authorities were not adequately equipped to handle these requests and waiting

times increased. In total 102,705 people were deported to their countries of origin; 98% of those deported were from Central America, more than half of them from Honduras. Of those deported people, 1,808 were unaccompanied children.

Mexico received more than 50,000 asylum-seekers returned by the USA under the “Migration Protection Protocols” plan, also known as “Remain in Mexico”. Mexico had given assurances that these people would receive six-month humanitarian visas while awaiting the progress of their asylum process in the USA. However, the government provided very few humanitarian visas in the northern border areas.

RECOMMENDATIONS

Amnesty International believes that the Mexican government could take stronger measures to guarantee the human rights of people living in Mexico or who transit through it. In particular, the organization recommends that the government:

- Ensure that the composition of the National Guard adheres strictly to the parameters set out in the Mexican Constitution and international law. In particular, its members should not pertain in any way to the armed forces or have any administrative or disciplinary relationship with them. While the National Guard is composed of members of the armed forces, the government must ensure that it does not engage in public security operations except in an exceptional, limited and restricted manner, in accordance with international human rights norms and standards, and that its members do not participate in the investigation of crimes.
- Recognize the competence of the United Nations Committee on Enforced Disappearance to receive and examine communications submitted by people within Mexican jurisdiction who allege that they are the victims of disappearance, or by others or by other states parties on their behalf, in line with Articles 31 and 32 of the International Convention for the Protection of all Persons from Enforced Disappearance.
- Establish a comprehensive public policy to prevent attacks on and protect human rights defenders that addresses the structural causes of violence against communities at risk. This must adopt, among other things, a collective approach, both in terms of risk analysis and of the measures that are implemented.
- Implement the recommendations of the Office of the United Nations High Commissioner for Human Rights regarding the Protection Mechanism for Human Rights Defenders and Journalists.
- Ensure that no child is held in immigration detention.
- Stop unlawful deportations (*refoulement*) of irregular migrants and ensure that such actions are subject to administrative sanctions.
- Carry out thorough, independent and impartial investigations into gender-based killings of women (femicides), ensuring that those responsible are brought to justice and that victims and their families have access to comprehensive reparation for the harm inflicted.



Women during a protest against the sexual abuse of women in Mexico City 2019. Photo: Jair Cabrera/NurPhoto via Getty Images
 National Guard improvising checkpoints in strategic places south of Chiapas where thousands of migrants are transported every day in cargo vehicles. Photo: Encarni Pindado

Mother's Day, Demonstration for disappeared persons in Mexico City. 10 March 2019 © Amnesty International
 Mother's Day, Demonstration for disappeared persons in Mexico City. 10 March 2019 ©Amnesty International

2. SECURITY STRATEGIES AND HUMAN RIGHTS

2.1 THE NEW NATIONAL GUARD

International human rights law establishes that the maintenance of internal public order and public security must be primarily the reserve of civilian police forces¹ and that the participation of the armed forces should be allowed only in the most serious circumstances and their activities kept to a minimum.²

On 14 November 2018, Andrés Manuel López Obrador, then the president elect, announced that he would create a National Guard formed in part by members of the armed forces.³ The announcement came a day before the Supreme Court of Justice ruled that the Internal Security Law, which gave broad powers of public security to the armed forces, was unconstitutional.⁴

The creation of the National Guard is a continuation of a massive deployment of the armed forces to carry out public security functions that should normally be the task of police forces, which was an essential element of the security strategy of previous governments.⁵ Despite the fact that the armed forces have been used for this type of work for decades, the expansion of the practice as a central government strategy emerged with a policy known as the “war against organized crime” at the beginning of the administration of the President Felipe Calderón Hinojosa in 2006.⁶

During the first months of the new administration, the Mexican Congress debated a constitutional reform to create a new National Guard. International organizations, non-governmental organizations, human rights defenders and academics questioned several aspects of the proposal and participated in a series of discussion forums in Congress.⁷ Amnesty International published a document outlining Mexico’s obligations under international human rights law when creating a security body such as the National Guard.⁸

1. Inter-American Court of Human Rights, *Case of Alvarado Espinoza et al. v. Mexico, Merits, Reparations and Costs*, Judgment of 28 November 2018, Series C No. 370, para. 182 (Spanish only).

2. Inter-American Court of Human Rights, *Case of Montero Aranguren et al. (Detention Center of Catia) v. Venezuela*, (Preliminary Objection, Merits, Reparations, and Costs), Judgment of 5 July 2006, Series C No. 150, para. 78; and *Case of Cabrera García and Montiel Flores v. Mexico*, (Preliminary Objection, Merits, Reparations, and Costs), Judgment of 26 November 2010, Series C No. 220, para. 88.

3. Speech by Andrés Manuel López Obrador at the presentation of the National Peace and Security Plan 2018-2024, 14 November 2018.

4. On 15 November 2018, the Supreme Court of Justice nullified the entire Internal Security Law published in the Official Gazette of the Federation on 21 December 2017, when ruling on unconstitutionality action 6/2018 and the related actions 8/2018, 9/2018, 10/2018 and 11/2018.

5. In April, the newspaper *El Economista* published an item, based on a public information request, which indicated that, by that time, the government of Andrés Manuel López Obrador had deployed 62,954 members of the army for various tasks including security operations, compared to 54,980 deployed in the last year of the presidency of Enrique Peña Nieto. Hector Molina. ‘Cifra récord de militares en las calles, con AMLO’, [AMLO puts record number of soldiers on the street], *El Economista*, 7 April 2019 (Spanish only). The article is based on information request No. 0000700056919.

6. Amnesty International, *Mexico: Amicus curiae brief in the Alvarado Espinoza case before the Inter-American Court of Human Rights* (Index: AMR 41/8371/2018).

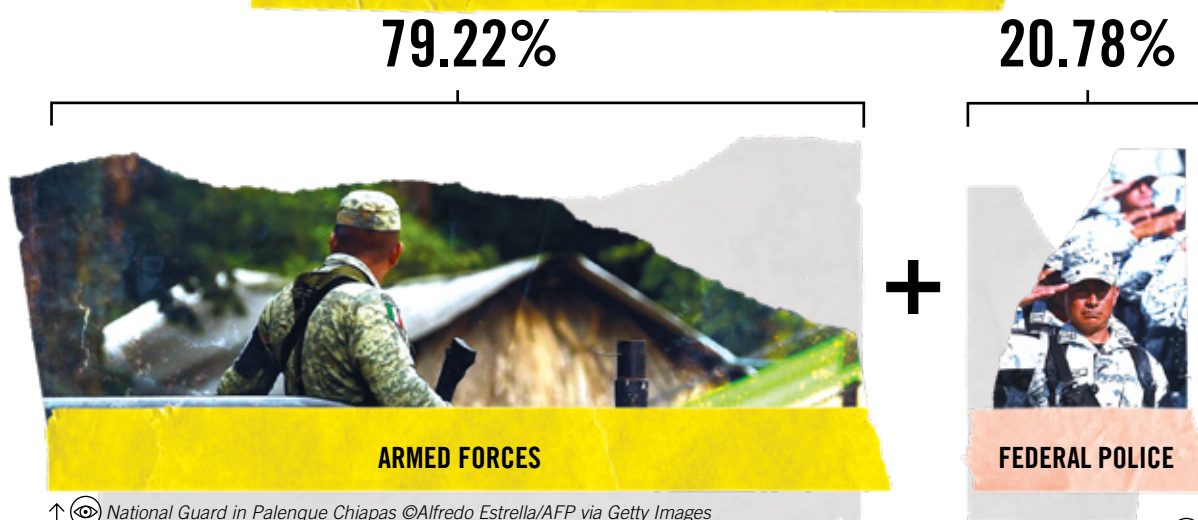
7. UN, *Office of the UN High Commissioner for Human Rights in Mexico ‘La Oficina en México del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (ONU-DH) saluda el acuerdo alcanzado en el Senado de la República sobre los cambios constitucionales en materia de Guardia Nacional’*, [The OCHCR welcomes the agreement reached in the Senate on constitutional changes regarding the National Guard], 22 February 2019 (Spanish only).

8. Amnesty International, *Mexico: The National Guard: International human rights obligations* (AMR Index 41/9697/2019).

The final text approved by Congress implied that the National Guard would be a civilian body, but that initially it would be composed of members of the Federal Police, the Military Police and the Naval Police. The amended text of Article 21 of the Constitution states: **“Public security institutions, including the National Guard, will be civilian, disciplined and professional in character”**.⁹

Currently 79.22% of the National Guard officials deployed come from the armed forces and only 20.78% from the Federal Police.¹⁰

DISTRIBUTION OF ELEMENTS OF THE NATIONAL GUARD



↑ National Guard in Palenque Chiapas ©Alfredo Estrella/AFP via Getty Images

National Guard deployment ceremony Photo: Manuel Velasquez / Getty Images ↑

The constitutional reform also established that the President could call on the armed forces for security operations in an “extraordinary, regulated, supervised, subordinate and complementary manner”¹¹ for up to five years. This wording comes from the judgment of the Inter-American Court of Human Rights in the case of *Alvarado Espinoza et al. v. Mexico*. However, in that case, the international court reiterated that the use of the armed forces for public security operations must not be the norm but a clear and extraordinary exception.¹²

Despite the constitutional norms approved for the National Guard and the ruling in the *Alvarado Espinoza* case, the Mexican government made a series of decisions that took the new security body in a strongly militarized direction. For example, it appointed Luis Rodríguez Bucio, who was then a Brigadier General in the Mexican Army, as head of the National Guard. Although the authorities promptly indicated that General Rodríguez Bucio was in the process of withdrawing from the army, the law provides that retired members of the armed forces remain military personnel and are subject to military discipline and chain of command. He cannot, therefore, be considered a civilian and his appointment does not fully respect the provisions of the Constitution.¹³

9. ‘Las instituciones de seguridad pública, incluyendo la Guardia Nacional, serán de carácter civil, disciplinado y profesional’ (Mexico, Decree by which various provisions of the Political Constitution of the United Mexican States are amended, added to and repealed, on matters relating to the National Guard, published in the Official Gazette of the Federation of 26 March 2019.)

10. The government has indicated that, as of 1 October 2019, 70,920 members of the National Guard had been deployed, of whom: 35,232 were from the Military Police, 6,871 from the Naval Police, 13,464 were members of SEDENA supporting the Guard National, 615 were members of SEMAR supporting the National Guard and 14,738 were from the Military Police. (Mexico, Office of the President of the Republic, Public Security Report, press conference of 14 October 2019.)

11. The exact wording in Spanish is: “de manera extraordinaria, regulada, fiscalizada, subordinada y complementaria”

12. Inter-American Court of Human Rights, Case of *Alvarado Espinoza et al. v. Mexico*, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 370, para. 182 (Spanish only).

13. Mexico, Law on the Mexican Army and Air Force, article 137. See also: Law on the Mexican Navy, article 71.

This appointment was not the only act that broke with the civilian nature of the National Guard. Although the constitutional reform allowed officials from the Military and Naval Police to be incorporated into the National Guard, the latter's civilian character would suggest that they should resign from the armed forces and enter the new institution as civilians. However, members of the armed forces have been transferred into the force through an administrative process without severing their links and original allegiance to the armed forces. In fact, the relationship of the new members of the National Guard with the armed forces is so close that they are only distinguishable by a wristband worn on the left arm. Despite this, this insignia is not used consistently in all security operations.

In the draft budget for 2020, the National Guard was not allocated resources to pay the salaries of these officers who apparently continue to receive payment directly from the Ministries for the Navy or National Defence, as relevant.¹⁴ Additionally, assets belonging to the National Guard, such as some buildings and barracks, are in the hands of the Ministry of National Defence.¹⁵

In May 2019, Congress passed the National Guard Law, which granted the new force powers to investigate crimes, including intercepting private communications, and to perform immigration control functions. These provisions are problematic because a substantial part of the National Guard's personnel is made up of military personnel and, as the Inter-American Court of Human Rights has clarified, the armed forces must not undertake police criminal investigation work.¹⁶

The National Human Rights Commission challenged the National Guard Law through legal action before the Supreme Court of Justice. In particular, the Commission highlighted the problematic disciplinary system of the National Guard which could jeopardize the human rights of its members.¹⁷ As of the date of publication of this document, the Supreme Court had not issued its judgment in this case.

The federal government has started the dismantling of the Federal Police.¹⁸ The army was used to assess whether members of the Federal Police were fit to serve in the National Guard or whether they should be transferred to other areas of the federal government, such as the National Migration Institute.¹⁹

Amnesty International believes that a National Guard predominantly made up of personnel from the military, subject to military discipline, paid by military institutions and under the command of an Army General cannot be considered a civilian institution. It should, therefore, not be involved in public security operations except in an exceptional, limited and restricted manner, in accordance with international human rights norms and standards.

14. Alejandro Hope, 'La Guardia Nacional no tiene plazas' ['The National Guard has no posts'] in *El Universal*, 11 September 2019.

15. See for example, Town hall of the municipality of Zapopan, State of Jalisco, 'Aprueba pleno comodato de predio en el fortín para la base de la Guardia Nacional', ['Approval of property loan for the National Guard base at the outpost'] 28 June 2019, available at <https://www.zapopan.gob.mx/aprueba-pleno-comodato-de-predio-en-el-fortin-para-la-base-de-la-guardia-nacional/> and Townhall of the municipality of Metepec, State of México, Twenty-sixth Extraordinary Session of the Town Hall 2019, 11 October 2019, available at: <https://www.metepec.gob.mx/pagina/sesiones-de-cabildo> (Spanish only).

16. Inter-American Court of Human Rights, *Case of Alvarado Espinoza et al. v. Mexico*, Merits, Reparations and Costs, Judgment of 28 November 2018, Series C No. 370, para. 182 (Spanish only).

17. National Human Rights Commission, *Action of Unconstitutionality lawsuit* [62/2019], 26 June 2019.

18. The government published the rules for the dismantling of the Federal Police through the Agreement establishing the Transitional Unit of the Ministry of Citizen Security and Protection, published in the Official Gazette of the Federation on 5 August 2019.

19. Patricia Dávila, 'Entre condiciones precarias, policías federales son forzados a conformar la Guardia Nacional', [In precarious conditions, Federal police are forced to form the National Guard], in *Proceso*, 23 June 2019 (Spanish only).



National Guard deployment ceremony. ©Manuel Velasquez/Getty Images

2.2 NATIONAL LAW ON THE USE OF FORCE

The constitutional reform that created the new National Guard ordered the Mexican Congress to issue a series of secondary laws, including a National Law on the Use of Force. The legislative process for this law was devised in the Mexican Senate – one of the two chambers of the Mexican Federal Congress – and was marked by uncharacteristic secrecy on the part of the Mexican Congress.

Senators told Amnesty International that only a small group of legislators had access to drafts and that the document was agreed between the leaders of the political parties in the Senate. On 21 May 2019, the proposed text was made public and approved on the same day. Two days later it was also approved by the Chamber of Deputies and was published in the Official Gazette of the Federation on 27 May 2019.²⁰

The National Law on the Use of Force regulates the use of force and firearms by all law enforcement officials in the country, not only those belonging to federal security forces.²¹ Although the organization considers that the Mexican government took an important step in moving towards the adoption of such a law, Amnesty International is concerned that it does not adhere to international human rights law, including the norms contained in the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.²²

The National Human Rights Commission considered that the law that was approved did not comply with several of these principles and that Congress had not adequately exercised the mandate it was given in the constitutional reform on the National Guard. Therefore, the National Commission challenged the law through an action of unconstitutionality before the Supreme Court of Justice, the outcome of which is still pending.²³ For its part, the Office of the UN High Commissioner for Human Rights in Mexico stated that: “While the approved Law incorporates part of the relevant international standards on the issue, certain shortcomings persist that pose serious threats to the rights to life, integrity, freedom of assembly and to protest and access to justice.”²⁴

20. For a detailed analysis of the law, see Amnesty International, *Mexico: Amicus curiae brief on the National Law on the Use of Force* (AMR 09/21/2013).

21. Law enforcement officials are state agents, including those belonging to military bodies, who carry out policing functions, especially those of arrest and detention.

22. UN, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

23. National Human Rights Commission, *Action of Unconstitutionality lawsuit* [62/2019], 26 June 2019.

24. [Own translation] “*Si bien la Ley aprobada incorpora parte de los estándares internacionales relevantes en la materia, resulta preocupante la persistencia de deficiencias que representan graves riesgos para los derechos a la vida, la integridad, la libertad de reunión y manifestación y el derecho de acceso a la justicia*”, UN, Office of the UN High Commissioner for Human Rights in Mexico recognizes the great importance of having provided the country with a legal framework that regulates the use of force and the recording of detentions nationwide, 24 May 2019.

In accordance with international human rights law, the use of force and firearms must be based on the principles of legality, necessity, proportionality and accountability. The National Law on the Use of Force takes these principles into account yet does so in an inadequate manner.

The **principle of legality** indicates that the use of force should be permitted only to achieve a legitimate objective and should be sufficiently based on national legislation. However, the Law states only that “the actions of security institutions must be carried out in strict adherence to the Constitution, laws and international treaties”.²⁵ Such a broad definition does not help determine the limits of the use of force and fails to establish the legitimate purposes for which force can be used. The law should contain a clear minimum framework that regulates for what purposes and in what possible circumstances force may be used.

The **principle of necessity** allows for the determination, in each specific case, whether force should be used and, if so, what level of force should be used. However, the Law does not contain provisions regarding how much force is required in each specific case, or that force should not be used if the objective has already been achieved or is no longer achievable.

The **principle of proportionality** prohibits the use of force if it is determined that the benefits of using it are outweighed by the possible consequences and harm caused; that is, when the harm exceeds the benefits that the achievement of the legitimate purpose would bring. However, the Law does not express this principle with sufficient clarity: namely, that law enforcement officials should not cause more harm than that which they are seeking to avoid. This flaw in the Law prevents the limits imposed by the principle of proportionality from being an adequate mechanism for ensuring that the state fulfils its obligation to protect human rights and its general obligation to prevent violations of these rights.

Article 15 of the Law contains a list of permitted weapons but without specifying the criteria for their use and the special and limited circumstances in which such use would be permissible. Amnesty International is concerned that categories such as ““devices that discharge electric shocks” are included that could encompass both weapons that should not be provided for ordinary security operations and others that cause intense suffering and should be banned, such as stun batons.²⁶

The list of weaponry also includes, in a problematic way, the use of explosives without introducing a clear rule that restricts this to the most extreme circumstances when there is absolutely no other option and where it is possible to ensure with certainty that no one will be harmed except the person presenting the serious threat.²⁷

25. “la acción de las instituciones de seguridad se realice con estricto apego a la Constitución, a las leyes y a los Tratados Internacionales”

26. See: Amnesty International, ‘5 tools of torture which need to be banned’, (press release, 26 June 2019); *Combating torture and other ill-treatment: a manual for action* (POL 30/4036/2016), pp. 202 et seq., and Amnesty International and Omega Research Foundation, *Impact on the human rights of less lethal weapons and other law enforcement equipment* (Index: ACT 30/1305/2015) pp. 22 and 24.

27. Article 15 of the Law provides for the use of explosives “under the terms of the Federal Law on Firearms and Explosives”, without establishing the manner and circumstances of their use.

THINGS THAT MUST CHANGE IN THE NATIONAL LAW ON THE USE OF FORCE IN MEXICO

ALLOWS MANY TYPES OF WEAPONS AND DOES NOT SAY HOW AND WHEN TO USE THEM



THE USE OF LETHAL FORCE DOES NOT LIMITED

DOES NOT REQUIRE MINIMIZING USE OF FORCE



DOES NOT PROVIDE PROTECTION FOR THIRD PARTIES

PUTS AT RISK PACIFIC DEMONSTRATIONS

National Guard in Palenque, Chiapas. ©Alfredo Estrella/AFP via Getty Images

Finally, the Law does not clearly state that any use of force, and not just lethal force, is a last resort which its officials should only use when it has been determined that other non-violent means would be ineffective, nor does it oblige law enforcement officials to take the necessary measures to defuse or reduce tension or conflict in order to avoid the use of force. In addition, the law does not set out clear rules for the protection of third parties, in line with international human rights law.

Amnesty International considers that the National Law on the Use of Force is in breach of Mexico's obligations regarding the rights to life and physical and mental integrity, among others, and contravenes the principles of legality, necessity, proportionality, prevention and protection of the right to life that must regulate the use of force.

2.3 TORTURE AND OTHER ILL-TREATMENT

The use of torture and other ill-treatment continues to be an alarming reality in Mexico, despite optimistic statements of federal authorities. In April 2019, Mexico submitted its seventh periodic report to the United Nations Committee against Torture. In it, the authorities insisted that torture is not a widespread problem in the country,²⁸ in clear contradiction to the findings of civil society organizations and various experts in the field, including the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.²⁹

In May, the Committee against Torture published its concluding observations on Mexico and expressed concern, among other issues, that Mexico has not taken sufficient measures to ensure that information or evidence obtained through torture is inadmissible in court; at the lack of thorough investigations into cases of torture; and at the constant cases of gender-based violence against women and girls.³⁰

28. Gabriela Sotomayor, 'Niega el gobierno de AMLO que la tortura sea generalizada; sus respuestas decepcionan a ONG', [The AMLO government denies that torture is widespread; their responses disappoint NGOs], in Proceso, 26 April 2019.

29. Amnesty International, Out of control: torture and other ill-treatment in Mexico (AMR 41/020/2014); Inter-American Commission on Human Rights Situation of Human Rights in Mexico, OEA/Ser.L/V/II, Doc. 44/15, 31 December 2015 para. 11; and Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Mexico, 17 February 2017 (A/HRC/34/54/Add.4), para. 21.

30. UN, Committee against Torture: Concluding observations on Mexico, CAT/C/MEX/CO/7.

The General Law to Prevent, Investigate and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, published in June 2017, establishes the obligation to create a National Programme for the Prevention and Punishment of Torture. This Programme was not established by the previous federal administration. Since April 2019, various civil society organizations have met with federal authorities to draft it. If published soon and properly implemented, such a programme could contribute positively to the eradication of this crime under international law.

2.4 DISAPPEARANCES

There has been a marked rise in the number of people reported as disappeared in Mexico since at least 2009. To date, federal authorities claim that the fate and whereabouts of at least 40,000 people are unknown. This figure has not been updated since April 2018. However, federal authorities launched in November a new system to register cases of disappearances.³¹ Many of these cases are enforced disappearances involving the state or disappearances committed by non-state agents. The new federal government has declared that this issue is one of its priorities and has stated that it will allocate all the necessary resources to resolve it.

During the first year of President López Obrador's government, some advances have been registered, such as the reinstatement of the National Search System on 24 March, 2019, which has seen an increase in resources in 2019 compared to 2018.³²

Also, on 30 August, the Assistant Secretary for Human Rights, Alejandro Encinas, announced that Mexico would recognize the competence of the UN Committee on Enforced Disappearances to review communications on individual cases, thus fulfilling a long-standing demand of relatives of the disappeared and human rights organizations. This measure, however, has not yet been implemented.

During its first year in office, the government focused on a strategy to address institutional shortcomings to deal with and identify thousands of human remains, because as the government affirmed, Mexico is facing a “forensic emergency”. Although the plan is making gradual progress, this strategy has not as yet yielded results.

As one of his first acts in office, President López Obrador created a special commission to address the case of 43 Raúl Isidro Burgos Rural College “Ayotzinapa” students forcibly disappeared in September 2014. Subsequently, the Attorney General's Office created a special unit to investigate the case.³³ The President also ordered the resumption of international assistance on the case and his government requested the cooperation of the Inter-American Commission on Human Rights in clarifying the case.

In August, the United Nations Human Rights Committee ruled that Mexico was responsible for the enforced disappearance in 2010 of Christian Téllez Padilla in the State of Veracruz. This was the first time that a United Nations agency had issued such a resolution on disappearances in Mexico.³⁴

31. Ministry of the Interior, *Encabeza secretaria Olga Sánchez Cordero presentación de plataforma digital para el reporte de personas desaparecidas o no localizadas*, 7 de noviembre de 2019, disponible en: <https://www.gob.mx/segob/prensa/encabeza-secretaria-olga-sanchez-cordero-presentacion-de-plataforma-digital-para-el-reporte-de-personas-desaparecidas-o-no-localizadas?idiom=es>

32. According to the presentation by the National Search Commissioner, Karla Quintana (ibid), the National Search System has been allocated 400 million pesos, compared to 8 million pesos in 2018. Most of these resources are for the use of local search commissions. See audio of the presentation of the Mexican State here: <https://bit.ly/2WOBu7V>

33. Mexico, Decree on the establishment of effective material, legal and human conditions, to strengthen the human rights of the relatives of the victims of the Ayotzinapa case to truth and access to justice, Official Gazette of the Federation, 4 December 2019; and Agreement A/010/19 establishing the Special Investigation and Litigation Unit for the Ayotzinapa case, Official Gazette of the Federation, 26 June 2019.

34. The case was pursued by the non-governmental organization Idheas Litigio Estratégico en Derechos Humanos AC. For more information on the case see: <https://www.idheas.org.mx/casos-derechos-humanos/desaparicion-forzada-y-de-particulares/christian-tellez-padilla/>

2.5 ARRESTS AND ARBITRARY DETENTIONS

In Mexico, arbitrary detentions are a widespread problem that often leads to other human rights violations, including torture and other ill-treatment, enforced disappearances and unfair trials.³⁵

In May, Congress took a step towards reversing this trend when it approved a National Detention Registration Law, which provides for a unified system to record the majority of detentions in the country. The Law, which has not yet been properly implemented, could be improved to include the obligation to record all detentions made by the armed forces and to cover all places where people may be deprived of their liberty, for example, psychiatric hospitals and migrant holding centres.

An April 2019 amendment to the Constitution extended the list of crimes which carry mandatory pre-trial detention.³⁶ Under this regulation, people accused of any of these crimes will await their trial in prison without a judicial authority being able to assess the need for such a measure, as required by international human rights standards. Amnesty International believes that this deprivation of liberty is arbitrary.

Another arbitrary form of deprivation of liberty in Mexico is *arraigo*; that is, detention without charge that can be extended for up to 80 days without evidence against the individual. Human rights organizations have raised serious concerns about this provision on the grounds that it constitutes a form arbitrary detention. In September, the Senate initiated a procedure to repeal *arraigo* and remove the provision from the Constitution. At the time of writing, the initiative had not been approved.



Demonstration 5 years of Ayotzinapa. September 26, 2019.
©Amnesty International

35. Amnesty International, *False suspicions: Arbitrary detentions by the police in Mexico*, (AMR 41/5340/2017).

36. Mexico, Decree on amendment of Article 19 of the Political Constitution of the United States of Mexico, on the subject of mandatory pre-trial detention, Official Gazette of the Federation, 12 April 2019. Currently, Article 19 of the Constitution provides for pre-trial detention for: sexual abuse or violence against minors, organized crime, manslaughter, femicide, rape, kidnapping, trafficking in persons, robbery of a home, use of social programs for electoral purposes, corruption in the case of illicit enrichment and abuse of office, theft of cargo transportation in all modalities, crimes related to hydrocarbons, petroleum or petrochemicals, crimes related to enforced disappearances and disappearances committed by individuals, crimes committed with violence such as using weapons and explosives, crimes involving firearms and explosives for solely intended for Army, Navy and Air Force use, as well as serious crimes determined by law against the security of the nation, free development of personality or of health.

3. SPACE FOR CIVIL SOCIETY

3.1 LAWS THAT UNDULY RESTRICT THE RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY

As a result of various social struggles, in the last five decades Mexico has made gradual progress in respecting the freedoms of peaceful assembly, association and expression and, in general, in opening spaces for civil society to participate in the conduct of public affairs. These changes, which have sometimes been too slow, have been uneven in various parts of the country and progress has alternated at times with steps backwards.

However, there are still practices that undermine the exercise of these rights. For years, mass arbitrary detentions and unsubstantiated criminal charges have been used to silence people who oppose government policy.

Although the government has promised an end to this type of harassment, in recent months two laws have been passed that limit the opportunity to exercise human rights by failing to protect or criminalizing social protest.

At the federal level, Congress passed the National Law on the Use of Force in May. Article 27 of the Law establishes that “Under no circumstances may weapons be used against people who participate in demonstrations or peaceful public assemblies with a lawful purpose”.³⁷ While this is step forward in that it prohibits the use of weapons during demonstrations, this prohibition should not be limited to cases where a protest is deemed lawful. In practice, it would be difficult for the police, who are not constitutionally qualified or empowered to do so, to determine whether the purpose of an assembly is lawful and, on that basis, decide whether or not to use force. In any case, under international human rights standards, the unlawfulness of a meeting would not be sufficient to authorize the use of force, which can be used during a demonstration only in exceptional circumstances and must only be directed at people who use violence or to prevent an imminent threat.

At the state level, in July the State of Tabasco approved an amendment to its Penal Code that increased the penalties for and modified the definitions of several crimes, among them the crimes of “obstructing works or projects” (article 196Bis) and “opposing public works or projects” (article 299).³⁸ These crimes allow peaceful meetings in which people express their opposition to a public or private development or construction project to face criminal sanctions. Criminal offences such as these are not new in Mexico, although the sanctions approved in Tabasco are much heavier than in other systems.³⁹ Alarmingly, President Andrés Manuel López Obrador agreed with these legal changes in Tabasco, arguing that they were not a violation of rights.⁴⁰

37. “Por ningún motivo se podrá hacer uso de armas contra quienes participen en manifestaciones o reuniones públicas pacíficas con objeto lícito”.

38. “impedimento de ejecución de trabajos u obras” and “oposición a que se ejecuten trabajos u obras públicas”.

39. For example, the Federal Criminal Code punishes the crime of opposition to the execution of any public work or project with three months to one year in prison, while under the amended Tabasco Penal Code it is punishable by between six and 13 years’ imprisonment.

40. The President has stated: “Tengo el informe de que no se afectan derechos humanos y no se limitan las libertades de los ciudadanos” [“I have reports that human rights are not affected, and citizens’ freedoms are not restricted”], Enrique Méndez and Néstor Jiménez. See the transcript version of the press conference at: <https://lopezobrador.org.mx/2019/07/30/version-estenografica-de-la-conferencia-de-prensa-matutina-del-presidente-andres-manuel-lopez-obrador-131/>

Amnesty International believes that such offences should be removed from criminal codes because everyone has the right to participate in peaceful assemblies and demonstrations, including those that oppose public works being carried out, and, therefore, this type of offence imposes an excessive and disproportionate restriction on freedom of peaceful assembly and expression.

3.2 ATTACKS ON JOURNALISTS AND HUMAN RIGHTS DEFENDERS

Mexico is a hostile environment in which to practise journalism and defend human rights. It is not unusual for harassment, surveillance, illegal interception of communications, physical attacks, disappearances and killings targeting journalists and human rights defenders to be reported each year. As a rule, impunity reigns for these attacks, which may contribute to the repetition of similar acts. Regardless of whether the perpetrators of the attacks are state agents or other individuals, the government's response is often poor.⁴¹

During the first year of this new government, violence against human rights defenders and journalists has not gone down.

In October, the government reported that, under the current administration, 23 human rights defenders and 15 journalists or media workers had been killed.

Several of the people killed had alerted the authorities about the risks they faced and three of them were beneficiaries of the Protection Mechanism for Human Rights Defenders and Journalists.⁴²

Given this context, Amnesty International is concerned at the way President López Obrador has used his press conferences to vilify the work of civil society organizations and to single out journalists and media outlets that have criticized his policies. On several occasions the President has questioned the legitimacy of the work of civil society organizations, for example, by pointing out that this was an obstacle to his proposal for a militarized national guard.⁴³ Similarly, the President has denounced the work of news agencies and journalists who have criticized his government.⁴⁴

These statements could be taken to suggest that the federal government is opposed to criticism and dissent and could, in fact, contribute to creating a hostile environment for them. Sometimes, there is a massive response on social media following these interventions which repeats and increases the criticisms made by the President.

41. Amnesty International, *Report 2017/18: The state of the world's human rights* (Index: POL 10/6700/2018).

42. Mexico, Office of the President of the Republic, Public Security Report, press conference of 14 October 2019.

43. In the morning press conference on 13 February 2019, the President stated: "en vez de que ayuden, nos están poniendo trabas ... siempre son los expertos los que deciden o los integrantes de la llamada sociedad civil y el pueblo raso no es tomado en cuenta" ["instead of helping, they are putting obstacles before us... it is always the experts who decide or the members of so-called civil society and ordinary people are not taken consideration"]. See the transcript of the conference available at: <https://lopezobrador.org.mx/2019/02/13/version-estenografica-de-la-conferencia-de-prensa-matutina-del-presidente-andres-manuel-lopez-obrador-44/>

44. In a disputed intervention at his conference on 15 April 2019, the President said: "El otro día vi con motivo de esta entrevista, vi a un columnista diciendo que los que venían aquí no eran buenos periodistas, que Jorge Ramos sí era muy buen periodista. Yo pienso, con todo respeto discrepo, creo que ustedes no sólo son buenos periodistas, son prudentes porque aquí los están viendo y si ustedes se pasan, pues, ya saben lo que sucede. Entonces, pero no soy yo, es la gente; no es conmigo, es con los ciudadanos, que ya no son ciudadanos imaginarios. Hay mucha inteligencia en nuestro pueblo, antes se menospreciaba a la gente". [« The other day I saw regarding this interview that a columnist was saying that those who came here were not good journalists, and that Jorge Ramos, he was very good journalist. No. I think, with all due respect I disagree, I think that you are not only good journalists, you are cautious because you are seen here and if you overreach, then, you know what happens. Then, but it's not me, it's the people; It is not me, it is the public citizens, who are no longer imaginary citizens. There is a lot of intelligence in our town, before people were underestimated"] Transcript available at: <https://lopezobrador.org.mx/2019/04/15/version-estenografica-de-la-conferencia-de-prensa-matutina-del-presidente-andres-manuel-lopez-obrador-65/>. See also, for example, the 22 July press conference in which the President generally called into question journalism in the country, available at: <https://lopezobrador.org.mx/2019/07/22/version-estenografica-de-la-conferencia-de-prensa-matutina-del-presidente-andres-manuel-lopez-obrador-126/>

On 17 January 2019, unidentified armed individuals attacked a peaceful demonstration in Amatán, in the State of Chiapas. The municipality had been in a deep political crisis for months, the result of conflict over political control of the City Council after a disputed election. The information available to Amnesty International indicates that members of the Regional Independent Campesino Movement (Movimiento Campesino Regional Independiente, MOCRI) and other social movements had been subjected to escalating violence since at least 2018. The organization alerted the government of then President Enrique Peña Nieto about this, without much success. During the January attack, Noé Jiménez Pablo and José Santiago Gómez Álvarez, two human rights activists and members of MOCRI, were illegally abducted by the attackers. The following day, their bodies, bearing signs of injuries, were found dumped in a local landfill. In response to this attack, the federal government took some measures such as sending security forces to the area, but the circumstances surrounding the deaths have not been clarified and those responsible have not been punished.⁴⁵

On 12 February, human rights defenders Obtilia Eugenio Manuel and Hilario Cornelio Castro were kidnapped by armed men as they were driving along a road in the State of Guerrero in southern Mexico. Both defenders are members of the Mepha'a Indigenous People's Organization (Organización del Pueblo Indígena Mepha'a, OPIM). OPIM, which defends the human rights of Indigenous Peoples, has been subjected to threats and attacks since at least 2009. Shortly before this attack, Obtilia Eugenio had been elected to a position on the Community Municipal Council of the town of Ayutla de los Libres. Both defenders were released on 16 February.⁴⁶



↑  Obtilia Eugenio Manuel, Indigenous rights defender, Mexico, August 2009 © Tlachinollan A.C.

45. Amnesty International, *Mexico: Two activists killed among escalating violence*, 22 January 2019 (AMR 41/9726/2019).
46. Amnesty International, *Mexico: Indigenous rights defenders disappeared*, 13 February 2019, (AMR 41/9856/2019).

On 20 February, human rights defender Samir Flores Soberanes was shot dead. Samir worked on human rights issues related to access to land, the territory and environment and was part of the People's Front in Defence of Land and Water (Frente de Pueblos en Defensa de la Tierra y Agua), a defenders' organization working in the States of Morelos, Puebla and Tlaxcala. Prior to this attack, Samir Flores had demonstrated against the "Comprehensive Morelos Project" ("Proyecto Integral Morelos") which is composed of a thermoelectric plant in Huexca, Morelos state; an aqueduct to the Cuautla River; and a gas pipeline that crosses the States of Morelos, Puebla and Tlaxcala.⁴⁷ The President widely condemned the killing of the defender, but instructed his government to continue with a public consultation aimed at approving the megaproject opposed by Samir and the communities.

On 5 June, Irineo Mújica and Cristóbal Sánchez, human rights defenders working on the rights of migrants and refugees, were arrested. The arrest followed arrest warrants issued by a federal judge for alleged crimes against the Migration Law. After the initial hearings, the judge dismissed the charges for lack of evidence. In the case of Irineo Mujica, the Attorney General's Office appealed the ruling, but another court confirmed that there was no evidence against him. Prior to their arrest, senior federal authorities, including the Minister of the Interior Olga Sánchez Cordero, had taken part in a smear campaign against these defenders and made accusations, without evidence, of their alleged involvement in migration crimes. Amnesty International notes that these arrests were carried out at the same time as diplomatic negotiations were taking place between the governments of Mexico and the USA on trade and migration issues and that the day after the arrests, a joint statement by the foreign ministries of both countries stated that: "Mexico is also taking decisive action to dismantle human smuggling and trafficking organizations as well as their illicit financial and transportation networks."⁴⁸ Amnesty International could find no other incident that occurred at that time to which both governments could be referring.

3.3 PROTECTION OF JOURNALISTS AND HUMAN RIGHTS DEFENDERS

In 2012, Mexico created a Protection Mechanism for Human Rights Defenders and Journalists which was considered a key policy to protect journalists and defenders from the risks they faced for their work. However, during the years in which it has been in operation, the Mechanism has faced several obstacles and has failed to adequately achieve its objective.

The new federal administration has openly accepted that the Mechanism is flawed and the Assistant Secretary for Human Rights, Population and Migration, Alejandro Encinas Rodríguez, asked the UN High Commissioner for Human Rights Office in Mexico to undertake an assessment of the measure. In

47. Amnesty International, *Mexico: Environmental rights defender killed*, 26 February 2019 (AMR 41/9893/2019).

48. Mexico, Ministry of Foreign Affairs, US-Mexico Joint Declaration, Washington DC, 7 June 2019.

its findings, which Amnesty International has seen, the Office of the High Commissioner found, among other things, that the Mechanism could be more effective if it had more and better resources, more efficient internal processes and better coordination with other authorities.⁴⁹

Amnesty International has noted a greater willingness on the part of the federal authorities to react to attacks on human rights defenders, mobilizing resources and personnel promptly. However, these responses need to be institutionalized and work in all cases where they are necessary. In particular, comprehensive strategies to prevent attacks against journalists and human rights defenders need to be developed and implemented.




↑  Cuetzalan. ©Itzel Plascencia/Amnesty International

Amnesty International documented that since 2016, human rights defenders in Cuetzalan, in the State of Puebla, have been harassed and criminalized in connection with a series of public demonstrations related to the announcement of the intention of the Federal Electricity Commission (CFE) to build an electrical substation there. Eight members of the Tosepan Union of Cooperatives “Tosepan Titataniske”, the Comprehensive Territorial Ecological Planning Committee (Comité de Ordenamiento Ecológico Territorial Integral, COTIC) and the Independent Popular, Urban Workers and Campesino Movement (Movimiento Independiente Obrero, Campesino, Urbano y Popular, MIOcup) were under investigation for the crime of opposing a public work or project, with the clear intention of forcing them to accept the CFE project. After several meetings between federal authorities and human rights defenders and their legal representatives, with the participation of Amnesty International, the CFE and the Attorney General’s Office put an end to the campaign of criminalization initiated under the previous government and the case was closed.

49. Office of the United Nations High Commissioner for Human Rights in Mexico, Diagnóstico sobre el funcionamiento del mecanismo [de Protección para Personas Defensoras de Derechos Humanos y Periodistas], [Assessment of the functioning of the Mechanism [to protect human rights defenders and journalists], Mexico City, July 2019, available at: http://hchr.org.mx/images/doc_pub/190725-Diagnostico-Mecanismo-FINAL.pdf (Spanish only).

On 28 December 2018, human rights defender Enrique Guerrero Aviña was released after almost six years in prison after the Attorney General's Office ended criminal proceedings, recognizing there had been serious violations of his human rights. Enrique had been arbitrarily detained on 17 May 2013 by Federal Police and subsequently tortured and held incommunicado. The then Attorney General's Office accused him of involvement in a kidnapping allegedly committed in Oaxaca. This was one of the first results of a process led by the federal government to review cases of alleged arbitrary detention. The government announced that the process has led to the release of 45 wrongly imprisoned people and that many of these cases were politically motivated.⁵⁰ Despite having regained his freedom, Enrique has not received comprehensive reparation for the harm done. In particular, the Executive Committee for the Support of Victims has not made progress in establishing in this case effective measures to ensure non-repetition and discourage the criminalization of human rights activists and defenders.



↑  Enrique Guerrero. ©Amnesty International

To date, Mexico has not acceded to the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters (Escazú Agreement). This Agreement is an international treaty that will facilitate a more participatory approach in decision making, the formulation of policies and projects related to the environment and a reduction and mitigation of conflicts generated by the lack of effective participation for affected communities. The Agreement contains important clauses to strengthen the protection of people who defend human rights and the environment.

50. Mexico, Office of the President of the Republic, Public Security Report, press conference of 14 October 2019.

4. GENDER-BASED VIOLENCE AGAINST WOMEN AND GIRLS

4.1 WIDESPREAD VIOLENCE AGAINST WOMEN AND GIRLS

Gender-based violence against women and girls is widespread throughout the country. The United Nations Committee on the Elimination of Discrimination against Women has noted: “persistent patterns of widespread gender-based violence against women and girls...including physical, psychological, sexual and economic violence, as well as the increase in domestic violence, enforced disappearances, sexual torture and murder, particularly femicide”.⁵¹

Torture of women using sexual violence remains a common practice.⁵² However, in 2019 the authorities did not publish information on progress in investigating and punishing this scourge.

On 21 December 2018, the Inter-American Court of Human Rights notified Mexico of its binding ruling declaring the state responsible for the serious human rights violations committed against 11 women who were subjected to illegal and arbitrary detention and torture using sexual violence during a police operation in the town of San Salvador Atenco, in 2006.⁵³ During 2019, the Ministry of the Interior, especially through the National Commission to Prevent and Eradicate Violence against Women (Comisión Nacional para Prevenir y Erradicar la Violencia contra las Mujeres, CONAVIM), made progress in



↑ Demonstration on International Women's Day. Mexico City, 8th March 2019 ©Amnesty International

strengthening the Mechanism against Sexual Torture, as part of efforts to implement the Inter-American Court's ruling, although without concrete results as yet.

The most recent official statistics on gender-based violence estimate that, by 2016, 66.1% of girls and women aged 15 or older had experienced gender-based violence at least once in their lives; 43.5% of women had experienced intimate-partner gender-based violence, of whom 32.6% of them had suffered at least one incident of violence in the year prior to the survey, 7.3% of them physical or sexual violence.⁵⁴ Gender-based violence affects many aspects of women's lives, for example, a 2018 survey indicated that 12.7% of working women had experienced discrimination at work related to pregnancy, including wrongful dismissals, and a third of the women who had had children in the five years prior to the survey suffered obstetric violence during childbirth or caesarean section.⁵⁵

51. UN Committee on the Elimination of Discrimination against Women, Concluding observations on the ninth periodic report of Mexico, 25 July 2018, CEDAW/C/MEX/CO/9, para. 23.

52. See for example, World Justice Project, *En nombre de justicia: tortura sexual a mujeres en México*, [In the name of justice: sexual torture of women in Mexico], 7 September 2018, available at: <https://worldjusticeproject.mx/en-nombre-de-la-justicia-tortura-sexual-a-mujeres-en-mexico/> (Spanish only).

53. See CEJIL and Miguel Agustín Pro Juárez Rights Centre, *Historic Judgment of Inter-American Court Orders Mexico to Punish Repression and Torture in Atenco*, available at: <https://centroprodh.org.mx/2018/12/21/historic-judgment-of-inter-american-court-orders-mexico-to-punish-repression-and-torture-in-atenco/?lang=en>

54. Mexico, National Institute for Statistics and Geography (INEGI), National Survey on the Dynamics of Relationships in Households, 2016, available at: www.inegi.org.mx (Spanish only).

55. Some data is taken from the analysis of the survey contained in INEGI, *Mujeres y hombres en México 2018*, available at: http://cedoc.inmujeres.gob.mx/documentos_download/MHM_2018.pdf (Spanish only).

The authorities kept 20 protocols known as “Alerts of gender-based violence against women” active in 18 states. These warning mechanisms, established by the General Law on Women’s Access to a Life Free of Violence, are based on coordinated efforts to confront and eradicate violence against women and girls, for example, through the allocation of additional resources to investigate cases, the adoption of urgent security measures, etc. However, these mechanisms lack a clear methodology that would allow them to be designed based on the needs of each locality, to monitor implementation and, at the end, ensure an evaluation or their impact. In this regard, the Committee on the Elimination of Discrimination against Women recommended that Mexico assess the impact of this mechanism and ensure the coordination of federal, state and municipal authorities.⁵⁶

In May, Jalisco State authorities arrested the person allegedly responsible for the femicide of Alondra Guadalupe González Arias; her family and human rights organizations had been demanding action for more than two years. Twenty-year-old Alondra was found dead on 10 March 2017 in her home town of Tlajomulco de Zúñiga, Jalisco State. Her body was found bearing serious injuries in the apartment where she lived. A month before her death, Alondra had reported violence by her former partner, who had threatened to kill her, to the authorities. However, the authorities did not protect her or investigate her complaint. The authorities had issued a “protection order” but never notified the police or the person named by Alondra as her attacker and it was therefore not implemented. The trial was ongoing at the time of writing. In addition, in April 2019, the Jalisco State Human Rights Commission issued a recommendation with various measures for comprehensive reparation, some of which have been complied with.

In August, several cases of sexual violence against women and girls sparked outrage and large demonstrations in Mexico City and other cities. Mexico City police officers were reported to have been implicated in some of these crimes. Apparently, personal information about some of the victims had been improperly leaked by government personnel to the media. After a march on 12 August, the Head of the Mexico City government dismissed the protests as acts of provocation.⁵⁷ In the following weeks the government of Mexico City changed its position, in response to public outrage, and said it would respect the right to freedom of assembly and investigate cases of violence against women and girls.

Another form of gender-based violence is the prohibition and criminalization of abortion. In September, the government of President López Obrador took a positive step to guarantee the rights of women when he presented a bill that provided for an amnesty for women who had had an abortion. This measure, if adopted, would have the disadvantage that it applies only to cases judged before federal courts and most such cases are heard in state courts. Amnesty International calls on Mexico to repeal laws making abortion a crime in all jurisdictions.

56. UN Committee on the Elimination of Discrimination against Women, Concluding observations on the ninth periodic report of Mexico, 25 July 2018, CEDAW/C/MEX/CO/9, para. 24. Likewise, in June 2018, the evaluation report on the functioning of the Alerts of gender violence against women issued by Eurosocial experts commissioned by the National Women’s Institute and the National Commission to Prevent and Eradicate Violence against Women was published. The report contains recommendations to improve the functioning of the mechanism and different methodological proposals for its operation; available at: <https://www.gob.mx/cms/uploads/attachment/file/401827/InformeMAVGCM.pdf> (Spanish only).

57. Eréndira Aquino, ‘Mujeres marchan contra violencia de género en CDMX; Sheinbaum acusa provocación de un grupo de manifestantes’, [‘Women march against gender violence in Mexico City; Sheinbaum accuses a group of protesters of provocation’], *Animal Político*, 12 August 2019 (Spanish only). In a brief message of just under a minute, released on the same day, Claudia Sheinbaum, Head of Government of Mexico City called the day’s protests “provocations” three times.

4.2 GENDER-BASED KILLINGS OF WOMEN

In recent years, Mexico has made progress in classifying the gender-based killings of women (femicide) as a crime in criminal codes, but there are still flaws in the legal definitions used.⁵⁸ In addition, adequate and up-to-date information on the killings of women is lacking and there is inadequate data on their relationship to gender-based violence. The previous and current federal administrations have tried to resolve this situation through better recording of investigations that are opened by prosecutors in the country and of calls to the emergency number 911 related to violence against women.⁵⁹

Between January and September 2019, 748 cases of femicide were reported and investigated by prosecutors and the monthly average increased during 2019.⁶⁰

However, this approach has some limitations. On the one hand, while it is true that, in general, investigation files are opened for violent deaths, it is possible that not all cases are investigated or that some are classified as accidental deaths.⁶¹ On the other hand, prosecutors often classify cases of violent death of women as homicides rather than femicides. In some cases, deaths previously classified as suicides have been reopened as femicides.

Other relevant information is contained in the administrative records, which register deaths based on death certificates or logs of accidental and violent deaths held by the Public Prosecutor's Office. The data for 2018, which is the most recent available, indicates that 3,548 women were victims of violent deaths, which could be homicides or femicides.⁶² An analysis of these records shows that in the 10 years from 2007 to 2017, the murder rate of women almost tripled from 1.99 to 5.24 per 100,000 women. It also shows differentiated violence against women. Although in recent years killings of women in public places have increased considerably, domestic violence persists and proportionately more women are killed in the home than men.⁶³

Amnesty International is concerned that as yet there are no clear and effective strategies to combat and prevent this problem.

4.3 SEXUAL AND REPRODUCTIVE RIGHTS

In September, the government of President López Obrador took a positive step to guarantee the rights of women when he presented a bill that provided for an amnesty for women who had had an abortion. This measure has the disadvantage that it applies only to cases tried before federal courts and most abortion cases are heard in state courts. Therefore, the initiative would be strengthened if it were extended to states and, ultimately, if abortion were decriminalized in all states and in the Federal Criminal Code. Currently, abortion is not a crime up to week 12 of the pregnancy only in Mexico City. In addition, the Oaxaca State Congress approved the relevant legal amendments in September, but at the time this report was completed, these had yet to be published.

58. Mexico is a federal state in which each of the 31 states and Mexico City have their own criminal codes. In addition, there is a Federal Criminal Code. See UN Committee on the Elimination of Discrimination against Women, Concluding observations on the ninth periodic report of Mexico, 25 July 2018, CEDAW/C/MEX/CO/9, para. 24.

59. Mexico, National Conference on Access to Justice, *Guidelines for the registration and classification of alleged crimes of femicide for statistical purposes*, 5 March 2018, available at: https://www.gob.mx/cms/uploads/attachment/file/310369/Lineamientos_registro_femicidio_CNPJ_aprobada_5MZO2018.pdf (Spanish only).

60. Mexico, Executive Secretariat of the National Public Security System, *Information on violence against women, Incidence of crimes and emergency 9-1-1 calls*. Information as of 30 September 2019. See in particular pp. 17 and 18.

61. For example, in 2019 the government of Mexico City reviewed the city's crime data for 2018 and reclassified thousands of cases. Homicides (including femicide) increased by 11.5% compared to what was originally reported by the Mexico City Attorney General's Office. Mexico, Mexico City, *Reclassification of Investigation Files 2018*, available at: https://datosseguridad.cdmx.gob.mx/tablero/assets/data/reporte_reclasificacion_carpetas.pdf (Spanish only).

62. The category used by INEGI is "female deaths presumed to be homicides" ["muertes femeninas con presunción de homicidio"]. For an analysis of INEGI administrative records with a femicide category, see Carolina Torreblanca, "¿Qué contamos cuando contamos 'feminicidios'?", [What do we count when we count "femicides"?], *Animal Político*, Data Cívica, 12 November 2018.

63. Amnesty International and Data Cívica, *¿Cómo son asesinadas las mujeres en México?*, [How are women killed in Mexico?], available at: <http://amnistia.datacivica.org/> (Spanish only).

5. MIGRANTS AND ASYLUM SEEKERS

Although the new government began its administration by announcing a human rights approach in its policies on migrants and asylum-seekers, the humanitarian measures adopted quickly hardened. In December 2018, the government announced its 2018-2024 Migration Policy Programme which had two key pillars: respect for the human rights of migrants and cooperation on development in Central America and south-eastern Mexico.⁶⁴ However, although the aspect focusing on development in Central America was linked to an assistance programme for the region announced in subsequent months,⁶⁵ the human rights aspect of the programme did not detail specific actions, goals, or indicators to achieve a migration policy based on human rights.⁶⁶

In January and February 2019, Mexico received a series of caravans of migrants and asylum-seekers from Honduras and other countries in Central America. Initially it carried out an innovative system of personalized needs analysis. In addition, it provided an unprecedented number of humanitarian visas to those arriving, with 14,174 humanitarian visas provided on the southern border of Mexico in the first two months of the year,⁶⁷ compared with 1,471 during the same period the previous year. These visas allowed people to work temporarily in the country. However, within a few months that system became ineffective, with an abrupt fall in the number of humanitarian visas granted to less than 2,000 per month in subsequent months.⁶⁸ On 7 June, the Mexican government reached an agreement⁶⁹ with the US government to implement various immigration control measures, including the deployment of 6,000 members of the National Guard on the southern border. With this deployment of security personnel, there was an increase in the number of immigration raids in squares, hotels and in the street and in the number of arrests of irregular migrants. There were several cases of mass arbitrary detentions, including approximately 400 people detained in June on a highway near Tapachula, Chiapas.⁷⁰

64. National Migration Institute, 'El INAMI se reestructura ante la nueva política migratoria de México' ['INAMI restructures itself in response to Mexico's new immigration policy'], press release, 21 December 2018, available at: <https://www.gob.mx/inm/es/articulos/el-inami-se-reestructura-ante-la-nueva-politica-migratoria?idiom=es> (Spanish only). See also: Ministry of the Interior, New Migration Policy of the Government of Mexico, available at: http://portales.segob.gob.mx/es/PoliticaMigratoria/Nueva_Politica_Migratoria (Spanish only).

65. Economic Commission for Latin America and the Caribbean, ECLAC, will present Mexico with a proposal for a Comprehensive Development Programme for El Salvador-Guatemala-Honduras-Mexico.

66. Ministry of the Interior, New Migration Policy of the Government of Mexico, available at: http://portales.segob.gob.mx/es/PoliticaMigratoria/Nueva_Politica_Migratoria (Spanish only).

67. Migration Policy Unit, Ministry of the Interior, Annual Statistics Bulletin: http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/Boletines_Estadisticos (Spanish only).

68. Ibid.

69. Mexico, Ministry of Foreign Affairs, US-Mexico Joint Declaration, Washington DC, 7 June 2019.

70. Amnesty International, *Asylum seekers at risk of mass detentions* (AMR 41/0492/2019), 7 June 2019, available at: <https://www.amnesty.org/en/documents/amr41/0492/2019/en/>

The United Nations Committee on the Elimination of Racial Discrimination (CERD) highlighted the danger of discriminatory actions arising from the use of the National Guard for migration control.⁷¹

By the end of September, federal immigration authorities had detained 158,200 irregular migrants.⁷² Of these, 134,432 came from Central America, a figure almost equal to the total number of people from this region detained throughout the previous year.⁷³ In the case of children and adolescents, there was a sharp rise in the number of minors detained in immigration holding centres, with 46,476 detained by September 2019, compared to 31,717 in 2018.⁷⁴

The detention of migrants remained routine practice and detention conditions worsened. Over the year, overcrowding deteriorated in migrant detention centres and temporary holding facilities. Asylum-seekers were housed in roadside facilities. While these were designed to hold people for only up to 48 hours, many people were held in such facilities for up to six weeks.⁷⁵ In



NUMBER OF CHILDREN AND ADOLESCENTS DETAINED IN MIGRANT DETENTION CENTRES

↑ National Guard improvising checkpoints in strategic places south of Chiapas where thousands of migrants are transported every day in cargo vehicles. Photo: Encarni Pindado

addition, on several occasions, the National Human Rights Commission reported overcrowding in immigration holding centres. The National Migration Institute (INM) continued to detain children and adolescents in migrant holding centres, even though this is prohibited⁷⁶ by law and despite, in the case of Mexico City, a federal judge ruling that the INM must seek to release children and adolescents detained at the “Las Agujas” Migration Holding Centre.⁷⁷ The National Mechanism for the Prevention of Torture stated that there was a risk of torture and ill-treatment at the “Las Agujas” Migration Holding Centre and denounced that the INM had not complied with the recommendations that the Mechanism had made a year earlier.⁷⁸

71. United Nations Committee on the Elimination of Racial Discrimination, Concluding observations on the combined eighteenth to twenty-first periodic reports of Mexico, CERD/C/MEX/CO/18-21, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FMEX%2FCO%2F18-21&Lang=en

72. Migration Policy Unit, Ministry of the Interior, Annual Statistics Bulletin: http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/Boletines_Estadisticos. Table 3.1.1 (Spanish only).

73. A total of 138,612 migrants were detained by the National Migration Institute in 2018, available at: Migration Policy Unit, *Boletín Estadístico anual*: http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/Boletines_Estadisticos (Spanish only).

74. *Ibid.*

75. Colectivo de Observación y Monitoreo de Derechos Humanos en el SE Mexicano: (Alianza Américas, Red Nacional ‘Todos los Derechos para Todos y Todas’, Migration Policy Working Group) press release, 25 May 2019, ‘Comunicado: liberado un grupo de 29 personas solicitantes de refugio tras 45 días de detención en las celdas migratorias de Huehuetán, Tapachula – Chiapas’ [‘Press release: A group of 29 asylum-seekers released after 45 days of detention in the migrant holding centre Huehuetán, Tapachula – Chiapas’] 25 May 2019. Press release, 3 October 2019, ‘Alarmante situación en la Nueva Estancia Provisional de Chiapas Cupape 2 – La Mosca’ [‘Alarming situation in the New Provisional Centre in Chiapas Cupape 2 – La Mosca’].


76. See Regulation of the General Law on the Rights of Children and Adolescents, article 111, available at: http://www.dof.gob.mx/nota_detalle.php?codigo=5418303&fecha=02/12/2015 (Spanish only).

77. Alberto Pradilla, ‘El INM lleva un mes incumpliendo resolución que le obliga a no encerrar a migrantes menores de edad en CDMX’, [‘The INM has been in breach of a resolution for a month that obliges it not to detain migrant children in Mexico City’], *Animal Político*, 27 July 2019, available at: <https://www.animalpolitico.com/2019/07/inm-incumple-resolucion-prohibe-encerrar-migrantes-menores-edad-cdmx/> (Spanish only).

78. National Human Rights Commission, ‘Afirma MNPT que persisten factores de riesgo de tortura y malos tratos hacia la población alojada en la Estación Migratoria “Las Agujas”’, [‘MNPT states that risk factors for torture and ill-treatment persist for the people housed in the “Las Agujas” Migrant Holding Centre’], Press release, 19 July 2019, available at: <https://www.cndh.org.mx/documento/afirma-mnpt-que-persisten-factores-de-riesgo-de-tortura-y-malos-tratos-hacia-poblacion> (Spanish only).

At least three people died in the custody of the National Migration Institute during the year, an increase compared to previous years. On 15 May, a 10-year-old Guatemalan girl died.⁷⁹ The National Human Rights Commission confirmed that her death was due to negligence on the part of National Migration Institute officials who had failed to provide care after she fell from a bunk in one of the bedrooms at the migrant holding centre in Mexico City.⁸⁰ In June, a Guatemalan man died after being detained at an INM checkpoint; the authorities said the cause of death was a heart attack.⁸¹ In August, a Haitian migrant died at the “Siglo XXI” Migration Detention Centre in the city of Tapachula. According to human rights organizations, he had been ill for several days and kept in an isolation cell.⁸²



↑  African Migrants Camping Outside the “Siglo XXI” migration station in Tapachula ©Encarni Pindado

“Siglo XXI” Migration Detention Centre in the city of Tapachula. According to human rights organizations, he had been ill for several days and kept in an isolation cell.⁸²

Mexico received more than 50,000 asylum-seekers returned by the USA under the “Migration Protection Protocols” (MPP) plan, better known as “Remain in Mexico”. According to statements by the Mexican government,⁸³ these returnees were to receive six-month humanitarian visas while waiting

for a judicial hearing date for their asylum process in the USA. Despite having confirmed in an official letter to Amnesty International and other international organizations⁸⁴ that humanitarian visas with the right to work would be given to MPP returnees, the official figures reflect a different reality. While thousands of people were returned from the USA to the states of Baja California and Chihuahua under the MPP programme, the number of humanitarian visas officially registered in these states in 2019 was very low, with between zero and a maximum of 176 being granted a month, and most months fewer than 30 being registered.⁸⁵ These official figures contradict official statements.

In addition, Amnesty International researchers on the ground during the first half of the year observed that people returned through the MPP were not given humanitarian visas with the right to work, but rather multiple migration documents that are the same as those provided to tourists. Although the Mexican government had announced its decision not to receive people through the State of Tamaulipas given the dangerous situation there, in July, several hundred people began to be returned through that state. Many were sent to the bus terminal in the city of Monterrey, State of Nuevo León, without

79. Amnesty International, ‘Mexico: First known child death in Mexican migration custody under new administration suggests eerie parallels with US policy’, 17 May 2019, available at <https://www.amnesty.org/en/latest/news/2019/05/mexico-primera-muerte-menor-custodia-autoridades-migracion-mexicana/>

80. National Human Rights Commission, ‘Dirige CNDH recomendación al INM, por la omisión, negligencia e inadecuada atención médica que trajo de consecuencia la pérdida de la vida de una persona menor de edad’ [‘CNDH issues recommendation to the INM, on the omission, negligence and inadequate medical care that resulted in the death of a minor’], Press release, 7 October 2019, available at: <https://www.cndh.org.mx/sites/default/files/documentos/2019-10/384-2019.pdf> (Spanish only).

81. Ángeles Mariscal, ‘Muere migrante guatemalteco en manos de agentes del INM’, [‘Guatemalan migrant dies in the custody of INM agents’], 12 June 2019, available at: <https://aristeguinoticias.com/1206/mexico/muere-migrante-guatemalteco-en-manos-de-agentes-del-instituto-nacional-de-migracion/> (Spanish only).

82. *Animal Político*, ‘Migrante de Haití no recibió ayuda y murió en estación migratoria de Chiapas’, [‘Haitian migrant did not receive help and died in Chiapas immigrant holding centre’] 7 August 2019, available at: <https://www.animalpolitico.com/2019/08/migrante-haiti-estacion-migratoria-chiapas/> (Spanish only).

83. Ministry of Foreign Affairs, ‘Mexico’s position regarding the decision of the US Government to implement section 235(b)(2)(c) of its Immigration and Nationality Law’, Press release No. 014, 20 December 2018 <https://www.gob.mx/sre/prensa/posicionamiento-de-mexico-ante-la-decision-del-gobierno-de-eua-de-implementar-la-seccion-235-b-2-c-de-su-ley-de-inmigracion-y-nacionalidad?idiom=es> (Spanish only).

84. National Migration Institute, 14 August 2019, Ref: No. INM/OSCJ/388/2019, Response to WOLA Response, Amnesty International and other organizations on the “Voluntary Return Programme”

85. Migration Policy Unit, Ministry of the Interior, Annual Statistics Bulletin: http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/Boletines_Estadisticos (Spanish only).

receiving information or guidance. Finally, the National Migration Institute operated a programme called the “Assisted Voluntary Return Programme” under which many of those returned from the USA were sent back to their countries of origin and could constitute a violation of the principle of non-*refoulement*.

The federal refugee agency (the Mexican Refugee Assistance Commission, COMAR) received 54,377 asylum applications between January and September),⁸⁶ compared to 29,648 in 2018. Most of those applying were Hondurans, followed by Salvadorans, Cubans and, later, Venezuelans. The authorities were not adequately equipped to deal with applications and waiting times increased. In total, 102,705 people were deported to their countries of origin from January to September; 98% of those deported came from Central America, and more than half were from Honduras.⁸⁷ Of those deported, 1,808 were unaccompanied children.

102,705 DEPORTATIONS FROM JANUARY TO SEPTEMBER



↑ Mostly Central American migrants approach the freight train to see how to get on. Women with young children, families and pregnant women travel from Palenque to Coatzacoalcos, in Veracruz. ©Encarni Pindado

The number of irregular migrants from Africa increased fivefold between January to July 2019.⁸⁸ The number of people from Haiti and Cuba also increased during the year, with more than 6,000 Cubans and more than 3,000 Haitians detained; the figure for 2018 was no more than 1,000 from both countries combined.⁸⁹ The situation of the people from Africa, Haiti and Cuba worsened after the National Migration Institute announced in July the cessation of safe-conducts that were traditionally given to people from these countries to transit through Mexico.⁹⁰ This change resulted in hundreds of African, Cuban and Haitian people, including children and families, living in camps in the city of Tapachula for months without any solution to their situation.

86. Mexican Refugee Assistance Commission ,COMAR, *Report as at the end of September 2019*, available at: https://www.gob.mx/cms/uploads/attachment/file/498410/REPORTE_AL_CIERRE_DE_SEPTIEMBRE_2019__2-oct_.pdf (Spanish only).

87. Migration Policy Unit, Ministry of the Interior, Annual Statistics Bulletin: http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/Boletines_Estadisticos, Table 3.2.4, (Spanish only).

88. *Ibid.*

89. Migration Policy Unit, Ministry of the Interior, Annual Statistics Bulletin: http://www.politicamigratoria.gob.mx/es/PoliticaMigratoria/Boletines_Estadisticos (Spanish only).

90. Alberto Pradilla, 'Migrantes africanos varados en Tapachula, Chiapas, acusan que no les dan soluciones para ir hacia EU', ['African migrants stranded in Tapachula, Chiapas, complain they are not being given solutions to go to the USA'], 4 September 2019, available at: <https://www.animalpolitico.com/2019/09/migrantes-africanos-varados-chiapas-trayecto-eu/> (Spanish only).

6. CONCLUSIONS AND RECOMMENDATIONS

Amnesty International believes that the new Mexican government has shown an interest in advancing respect for, guaranteeing and protecting human rights in some key areas, but problems in the design and implementation of public policies, including in the allocation of resources, could hamper the ability to make real changes. On the other hand, Amnesty International deeply regrets that the approach to public security and, more recently, migration, is based on a militarized model that has proven counterproductive and contrary to human rights. Militarization, including the creation of the new National Guard, is one of the areas of greatest concern for the organization because of the high risk of perpetuating human rights violations.

The new administration has taken important steps to make progress on issues such as the situation of human rights defenders and the disappearance crisis. However, to date, many of the government measures in this area have been symbolic or announcements that have yet to be implemented, such as the recognition of the competence of the Committee on Enforced Disappearances. It is essential that, in the coming years of the administration, the government of President López Obrador make the announced policies a reality.

Similarly, many of the government's plans that could have a positive effect on human rights will require sufficient resources to be allocated; during the first year of government these have not been made available. This is the case, for example, for the Protection Mechanism for Human Rights Defenders and Journalists and the National Search System for the disappeared. The Mexican government and Congress must work together to ensure that Mexico allocates sufficient public funds to these programmes.

On other issues, the government could move faster and more thoroughly than it has done so far, for example, by ensuring that abortion is no longer criminalized in the country instead of just having an amnesty proposal that, given the federal nature of the Mexican state, has limited application. Likewise, the Mexican government could establish a more robust strategy to prevent and punish femicides.

Finally, the organization considers that measures that negatively affect fair trial guarantees must be reversed, especially mandatory pre-trial detention in order to allow judges to determine on a case by case basis whether pre-trial detention is appropriate.

Therefore, Amnesty International makes the following recommendations.

TO THE MEXICAN GOVERNMENT

- Ensure that the composition of the National Guard adheres strictly to the parameters set out in the Mexican Constitution and international law. In particular, that its members do not pertain in any way to the armed forces and do not have any administrative or disciplinary relationship with them. While the National Guard is composed of members of the armed forces, the government must ensure that it does not engage in public security operations except in an exceptional, limited and restricted manner, in accordance with international human rights norms and standards, and that its members do not participate in the investigation of crimes.
- Complete drafting, publish and implement the National Programme to Prevent and Punish Torture.

- Implement, as a matter of urgency and in their entirety, the General Law to Prevent, Investigate and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the General Law on Enforced Disappearances and Disappearances Committed by Individuals; and the National Search System.
- Recognize the competence of the United Nations Committee on Enforced Disappearances to receive and examine communications submitted by people under Mexican jurisdiction who allege that they are the victims of disappearance, or on their behalf or by other states parties, in line with Articles 31 and 32 of the International Convention for the Protection of all Persons from Enforced Disappearance.
- Publicly express concern, at the highest level, about the situation faced by human rights defenders working on issues related to the land, territory and environment and recognize their contribution to environmental conservation.
- Establish a comprehensive public policy to prevent attacks on and protect human rights defenders that addresses the structural causes of violence against communities at risk. This perspective must adopt, among other things, a collective approach, both in terms of risk analysis and of the measures that are implemented.
- Implement the recommendations of the Office of the United Nations High Commissioner for Human Rights regarding the Protection Mechanism for Human Rights Defenders and Journalists.
- Ensure justice is done in cases of human rights defenders and journalists who have been killed or who have faced other types of persecution and violence as a result of their work.
- Promote Mexico's adherence to the Regional Agreement on Access to Information, Public Participation and Access to Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement) and implement it internally.
- Redouble efforts to develop a standard system of producing regular statistical data on violence against women, including gender-based killings of women, disaggregated by the type of violence and the circumstances in which the violence was committed, including information about the perpetrator and the victim and the relationship between them.
- Carry out thorough, independent and impartial investigations into gender-based killings of women (femicides), ensuring that those responsible are brought to justice and that victims and their families have access to comprehensive reparation for the harm inflicted.
- Ensure that no child is held in immigration detention.
- Ensure that irregular migrants who are apprehended and detained are duly informed of their right to request asylum and are allowed to do so without restrictions.
- Review the protection needs of asylum-seekers, and migrants' rights defenders, in Mexican border cities in order to protect them from abuses by state agents and non-state actors.
- Stop unlawful deportations (*refoulement*) of irregular migrants and ensure that such actions are subject to administrative sanctions.

TO THE MEXICAN CONGRESS:

- Amend the National Law on the Use of Force to bring it into line with international human rights law, in particular the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the rulings handed down by the Inter-American Court of Human Rights.


- Amend the legal framework applicable to the National Guard to ensure that its members do not carry out any immigration control work, either directly or as in collaboration with other authorities.
- Amend the National Detention Registration Law to bring it into line with international human rights standards and ensure that the obligation to register all detentions by the armed forces is included and that all the places where people deprived of liberty may be held are included, for example, psychiatric hospitals and migration detention centres.
- Repeal constitutional provisions and laws on *arraigo* and mandatory pre-trial detention, leaving the decision about whether to adopt precautionary measures in each case at the discretion of the judicial authorities.
- Repeal the crime of abortion in the Federal Criminal Code.




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MEXICO: WHEN WORDS ARE NOT ENOUGH

THE HUMAN RIGHTS SITUATION ONE YEAR INTO THE NEW GOVERNMENT

The new Mexican federal administration, headed by President Andrés Manuel López Obrador, took office on 1 December 2018.

Amnesty International presents an overview of the human rights situation in the country one year into this government, focusing mainly on security strategies and their impact on human rights, spaces for civil society, gender-based violence against women and girls, and the situation of migrants and asylum-seekers.