



**DECLARATION BY CIVIL SOCIETY HUMAN RIGHTS ORGANIZATIONS
in relation to the damaging effects on human rights due to the inadequate national
security policies aimed at combating drugs in Mexico**

**In the context of the Special Session of the United Nations General Assembly on the
World Drug problem (UNGASS 2016)**

The security strategy implemented by Mexico in order to fight the cultivation, trafficking and possession of drugs, founded in the UN international drug control regime with the aim of reducing the supply of illicit drugs across all countries, **has had damaging effects on the enjoyment of human rights in the country.**

In theory, according to this regime, the scarcity of drugs would increase their prices and as a result, it would also discourage their purchase. Despite the numerous and high cost efforts by the international community to implement this policy, drug prices are lower than ever and the objective to achieve “societies free from drugs” is far from reality.

National and international evidence shows that policies introduced to prohibit and penalize the cultivation, sale and use of certain drugs are disproportionate and have had no effect on the eradication of the production nor the problematic use of drugs. On the contrary, the collateral consequences of the prohibitionist policies have been profoundly damaging.

According to the National Survey on Addictions in 2011, the most recent survey published by the Mexican government on the prevalence of drug use in the country, there has not been a significant increase in the proportion of people who consume drugs, neither in the rate of dependency between 2008 and 2011¹. However, there has been an exponential, and increasingly dramatic, increase in the number of deaths and intentional homicides linked to national security policy towards drug trafficking.

In light of this situation, it is worth asking ourselves if we really are facing a “world drug problem”, as it has been called internationally, or if, indeed, the problem is the result of policies implemented by States to fight against the production, distribution and use of illicit drugs.

There are an increasing number of civil society human rights organizations who document the incidences of torture, enforced disappearance, arbitrary executions and other human rights violations suffered by individuals deprived of their liberty in prisons, particularly women who are serving time for nonviolent crimes linked to the possession of drugs.

We, civil society organizations, also document the vulnerability of children and adolescents towards violence and the organized crime; the violation of economic, social, cultural and environmental rights experienced by people and communities with little option but to cultivate drugs; the risks confronting people and entire families forced to move out of their homes due to the violence incurred by organized crime and without mechanisms of protection from the State; human rights violations and violence migrants face daily crossing the country; the attacks against journalists and human rights defenders who document the violence generated by the war on drugs; the fabrication of culprits and the restriction of fundamental liberties within a framework of a failed policy of national security.

It is for this reason that, in the context of the Special Session of the United Nations General Assembly on the World Drug Problem to be celebrated in April 2016, we are calling the attention about the diagnoses of national and international sources that highlight the relationship between national security policies towards combating illicit drugs and the serious increase of violence in our country.

- **The failure of the war on drugs in Mexico according to the international human rights bodies**

In Mexico, the impact of the international drug control regime has been devastating. Since 2006, when the ex-president Felipe Calderón declared a frontal war against organized crime in order to “save our children and youth from the claws of drugs and addictions”, violence, insecurity and corruption have increased at an alarming rate.

According to the report by the Inter-American Commission on Human Rights (IACHR), *Situation of Human Rights in Mexico*, published on 2nd March 2016, “Mexico has been undergoing a serious crisis of violence and security for several years”ⁱⁱ.

The report highlighted that during the administration of former President Felipe Calderón and the launch of the so-called “war on drugs” in 2006, “serious situations of violence increased until they reached alarming levels, including the subsequent loss of more than 100,000 human lives, thousands of disappearances, and a context that has caused the displacement of thousands of people in the country”ⁱⁱⁱ.

The security policy implemented in Mexico in the context of the war against drug trafficking consisted in the deployment of armed forces to exercise public security tasks without any civilian control. This situation, as documented by the IACHR in its report, “has sparked yet greater violence, as well as gross violations of human rights in which there has been a notable lack of accountability by international standards”^{iv}.

Despite the change of government and the official narratives of the current administration headed by President Enrique Peña Nieto, the IACHR observed that “in practice there have been no substantial changes with regard to security policies and the violence levels”^v.

Like the IACHR, other international human rights mechanisms have agreed that the violence generated by the presence of military forces in particular regions of the country with a higher presence of organized crime has caused serious human rights violations.

The Special Rapporteur on extrajudicial, summary or arbitrary executions highlighted during his visit to Mexico in 2013 that the large-scale deployment of members of the army in order to confront the drug cartels resulted in widespread extrajudicial executions perpetrated by the security forces as well as the cartels, “often without accountability”^{vi}. The Rapporteur observed with preoccupation that extremely violent incidents still occur in Mexico. In particular, attacks against the right to life at an intolerable level.

According to information provided by the Mexican Authorities directed to the Special Rapporteur, during Felipe Calderón’s administration, from December 2006 to November 2012, 102,696 homicides were committed. The government recognized that no less than 70,000 of these deaths (nearly 70%) were related to drug trafficking.^{vii}

Furthermore, the Special Rapporteur on torture, after his visit to Mexico in 2014, confirmed that due to the deployment of military personnel in the context of the war on drugs, the National Commission for Human Rights registered an increase in complaints of torture and ill treatment since 2007. They also reported a maximum of 2,020 complaints in 2011 in comparison to the annual average of 320 in the six years prior to 2007.^{viii}

Additionally, as a result of his visit to Mexico in October 2015, the United Nations High Commissioner for Human Rights became aware of the levels of corruption and impunity laced into the strategies of combating organized crime. In agreement with the High Commissioner, the enormous quantity of money mobilized by organized criminal groups “is co-opting or corrupting key institutions”^{ix} in the country. Furthermore, the strategy has been focused on detaining members of organized criminal groups instead of the deployment of real efforts to dismantle the network of corruption, involving members of organized criminal groups and the state agents.

This punitive and criminal focus of drug policy in Mexico can also be seen in the criminal prosecution of consumers and those in possession of drugs, which particularly affects women. The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, after its visit to Mexico in 2008, as well as the most recent report on Mexico by the IACHR, expressed worry about the abuse and degrading situations that women have to confront in prisons across Mexico.

Of the overall of women deprived of their liberty in Mexican prisons^x, 7% were remanded for drug dealing. Additionally, 40% of women imprisoned for federal crimes have been remanded for crimes against health.^{xi} In total, drug related crimes are the second largest motive for women’s imprisonment in Mexico.

There is an urgent need to shine a light on the consequences of imprisonment and, more generally, the abuse of criminal law in the cases of drug crimes in which women are implicated, especially for those who are mothers (80%). These women are often the only or principal economic providers and caretakers of their children and other dependent people.

- **The false indicators of the drug policy in Mexico**

The national security policy focused on combatting drugs has also promoted the development of laws and figures that go against the due process and judicial guarantees,

the presumption of innocence, the right to an adequate defense, and an appropriate sanction related to the seriousness of the crime.

The indicators used by the Mexican authorities to measure the success of its policies, have been through reports about the quantity of hectares of opium poppy and marijuana eradicated, the cocaine laboratories destroyed, the number of people detained, or the quantity of drugs seized. These indicators reflect the notion that effective policy on combating drug crime has been implemented. However, they fail to show the real progress of these strategies in relation to the principal objective: the reduction of drug use in the country.

Therefore, security strategies are implemented in order to reduce the supply and demand of illicit drugs, without including indicators of the impact of these strategies on consumption. In addition, these actions to combat drug trafficking are unsustainable in the long term. They ignore national borders and the operational capacity and diversification of the organized crime. In other words, the eradication of the opium poppy does not impede its cultivation in other parts of the country. Equally, detaining a leader of an organized criminal group does not affect the operation or fragmentation of the drug cartel, nor does it impede the growth of a new cartel. Furthermore, drug seizure and the identification of distribution routes, fails to limit the growth of new routes and forms of transportation.

- **Regulation instead of war**

In order to initiate a serious debate about the design of new public policies that regulate drug use, it is paramount to recognize the failure of the current policies. This includes the prohibitionist model and the national security policies aimed to combat the production, distribution and possession of drugs within the country.

The model which places the reduction of the supply as a priority has not worked. Rather, it has contributed to the sharp increase in violence, human rights violations, and the weakening of the rule of law in the countries most affected by drug production and trafficking. These lessons should help us to create new policies that try to combat the roots of the problem, that clearly distinguish between the use and the problematic use of substances, as well as its different impacts on health.

It is fundamental to design new indicators to evaluate the impacts of the strategies implemented on the prevalence of the use of drugs. The seizure of large quantities of drugs, the number of detained people, or the amount of hectares dedicated to the cultivation of drugs that have been eradicated do not indicate whether consumption is decreasing within the country. This will not be solved until a methodologically viable register is created to calculate the prevalence of consumption.

In order to dismantle the network of corruption and impunity that permeate organized criminal groups and that has generated such high levels of violence, it is necessary to strengthen civil institutions that fight drug trafficking. The use of military personnel instead of the police debilitates and distorts the roles of both institutions. The reform and strengthening of the justice system should go hand in hand with the strengthening of police forces in order to effectively combat drug trafficking at large scale.

In this context, the strong resistance by the Mexican State to de-militarize their strategy in combating production, distribution and drug use, is extremely worrying. This is especially concerning for two reasons. Firstly, many international human rights mechanisms have recommended to the country the de-militarization of the public security. Secondly, evidence such as the high fatality rates^{xii} due to the disproportionate use of force by military personnel and torture complaints reported to the Attorney's General's Office (PGR) committed by members of the armed forces^{xiii}, indicate that grave human rights violations are being committed by the armed forces in the country.

Equally alarming is the denial of Mexican authorities regarding their responsibility on the generation of violence in the country.^{xiv} As the United Nations High Commissioner for Human Rights affirmed in October 2015, part of the violence in Mexico can be attributed to organized criminal groups. However "many enforced disappearances, acts of torture and extra-judicial executions are alleged to have been carried out by federal, state and municipal authorities, including the police and segments of the Army, either acting in their own interests or in collusion with organized criminal groups."^{xv}

As a result, and with the human rights crisis that Mexico is currently facing, we call for the reformulation of the national security policy against drug trafficking, driven by a perspective of human rights and with a focus on a gender perspective.

At the national level, it is paramount to implement alternative measures to criminal prosecution and the imprisonment with a gender perspective.

Due to the opportunity provided by the international political arena, Mexico should encourage and respect the participation of other United Nation agencies within this debate, and recognize the contribution made by valuable reports by diverse international mechanisms that have addressed the human rights violations within the security policies aimed at combating drugs.

Mexico should promote the creation of a Special Procedure of the United Nations Human Rights Council, with a mandate to monitor and supervise the protection of human rights in the framework of antidrug policies implementation at the global level.

The reality caused by the war on drugs creating thousands of victims cannot continue to be ignored. The Mexican State urgently needs to focus on long term institutional reforms, and not on palliative measures that are based on punitive populism.

Signed by:

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ⁱ National Survey on Addictions 2011, available at:

www.conadic.salud.gob.mx/pdfs/ENA_2011_DROGAS_ILICITAS_.pdf (in Spanish).

ⁱⁱ Inter-American Commission on Human Rights (IACHR), Situation of Human Rights in Mexico. OEA/SER.L/V/II.Doc.44/15, 31th december 2015, p. 32.

ⁱⁱⁱ IACHR. Situation of Human Rights in Mexico, p. 32.

^{iv} IACHR. Situation of Human Rights in Mexico, p. 12.

^v IACHR. Situation of Human Rights in Mexico, p. 12.

^{vi} Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, A/HRC/26/36/Add.1, 28th April 2014, p. 5.

^{vii} Report by the Special Rapporteur on extrajudicial executions, summary or arbitrary executions, p.5.

^{viii} Report by the Special Rapporteur on torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Juan E. Méndez, A/HRC/28/68/Add.3, 29th December 2014, p. 6.

^{ix} Declaration by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein, p.5.

^x According to data provided by the National Institute of Statistics and Geography (INEGI), 13,027 women are deprived of their liberty in Mexico.

^{xi} In Mexico, drug related crimes are referred to as “crimes against health” and have both a federal dimension - contained in the Federal Criminal Code (CPF) - and a local dimension.

^{xii} According to data provided by Sedena, between 2007 and 2012, in supposed events of “assaults against military personnel”, 158 military personnel have died and 2,959 civilian “suspected attackers”. This means that, for each military personnel who died, 18.7 civilians died. Other official data indicates that the assassinations by the military have continued during Enrique Peña Nieto’s Presidency. The Sedena (Ministry of Defence) reports that in the period between 13th January 2007 and 5th April 2014, during supposed confrontations, 3,967 civilians died. Furthermore, it was reported that 209 military personnel died between 13th January 2007 and 30th October 2014 (19 civilian deaths for each military death).

^{xiii} According to data from the PGR (Attorney General’s Office) between 1st December 2006 and 31st December 2014, of the 4,055 reported torture complaints, 1,273 were attributed to members of the military.

^{xiv} A declaration given by the Under-Secretary for Multilateral Affairs and Human Rights of the Ministry of Foreign Affairs Miguel Ruiz Cabañas at the Thematic Audience: “General situation of human rights in México” which took place on 7th April 2016 in the 157th period of sessions of the Inter-American Commission on Human Rights (CIDH). Available at: <https://www.youtube.com/watch?v=sSV9vcgNu14>

^{xv} Declaration by the UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein, after his visit to México, 7th October 2015, p.3.