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LITIGIO ESTRATÉGICO EN DERECHOS HUMANOS, A.C.

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HUMAN RIGHTS COMMITTEE

SIXTH PERIODIC REPORT

OF MEXICO

SEPTEMBER, 2019

COMISIÓN MEXICANA DE DEFENSA Y PROMOCIÓN DE LOS DERECHOS HUMANOS
IDEAS LITIGIO ESTRATÉGICO EN DERECHOS HUMANOS
FEDERACIÓN INTERNACIONAL POR LOS DERECHOS HUMANOS

SHADOW REPORT

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SIXTH REPORT ON MEXICO
HUMAN RIGHTS COMMITTEE**

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List of abbreviations

CAT: Committee against Torture

CJF (Spanish acronym): Federal Judiciary Council

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

CMPP (Spanish acronym): Military Criminal Procedure Code

CNB (Spanish acronym): National Search Commission

CNDH (Spanish acronym): National Human Rights Commission

CNS (Spanish acronym): National Security Commission

ENADID (Spanish acronym): National Survey of Demographic Dynamics

ENAH (Spanish acronym): National School of Anthropology and History

ENOE (Spanish acronym): National Survey of Occupation and Employment

ENVIPE (Spanish acronym): National Victimization and Public Safety Perception Survey

FEIDDF (Spanish acronym): Specialized Prosecutor's Office for the Investigation of Crimes of Enforced Disappearance

FEIDT (Spanish acronym): Special Prosecutor's Office for the Investigation of the Crime of Torture

FGR (Spanish acronym): Office of the Attorney General of the Republic

NG: National Guard

IACHR: Inter-American Commission on Human Rights

I/A Court H.R or Court: Inter-American Court of Human Rights

MICIM (Spanish acronym): International Mechanism against Impunity in Mexico

OAS: Organization of American States

PGR (Spanish acronym): Office of the Attorney General of the Republic

SEDENA (Spanish acronym): Secretariat of National Defense

SEGOB (Spanish acronym): Ministry of the Interior

SEMAR (Spanish acronym): Ministry of the Marine

SESNSP (Spanish acronym): Executive Secretariat of the National Public Security System

SSPF (Spanish acronym): Secretariat of Public Security and Protection

UN: United Nations

I. Introduction

Mexico has seen alarming numbers of murders, acts of torture and enforced disappearances since the onset of war on drugs. In 2006, former president Felipe Calderón deployed

thousands of members of the armed forces to participate in public security tasks and authorized the use of lethal force against those considered as drug trafficking organizations.¹

The security strategy has caused an unprecedented escalate of violence in the country that has produced an undetermined number of direct and indirect victims, this in part has been due to the deployment of armed forces to perform public security tasks. Annually, more than 50 thousand elements of the National Defense Secretariat (SEDENA, Spanish acronym) and more than 8 thousand of the Navy Secretariat (SEMAR, Spanish acronym) have been deployed for the performance of public security tasks.² **After twelve years, the militarization of public security forces in Mexico remains unchanged, causing high rates of violence and grave human rights violations. In 2019, there have been a deployment of 62 thousand 954 militaries – a number that exceeds previous years.**³

Concerns regarding the human rights situation in Mexico have been shared by various international human rights protection mechanisms.⁴ The Office of the United Nations High Commissioner for Human Rights (hereinafter OHCHR) noted concern, after his visit in October 2015, for the alarming number of killings for “a country that is not in the midst of an armed conflict”. On the other hand, the Inter-American Commission on Human Rights (hereinafter "IACHR" or "Inter-American Commission") in their visit to Mexico found that the militarization of public security has had as a consequence the increase of the levels of violence and human rights violations as well as high levels of impunity.⁵

However, and despite the correlation between the presence of the armed forces and the increase in human rights violations, the current president Andrés Manuel López Obrador, who created, in less than a year in power, the National Guard, has institutionalized the militarization of public security. This institution was created on March 26, 2019 through a

¹ Instituto para la Seguridad y la Democracia, a.c. (insyde), cmdpdh, ccdh, Informe sobre el estado del marco normativo y la práctica de la tortura en México (México d.f.: cmdpdh, 2014), available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-informe-sobre-tortura-relator-onu-abril-2014.pdf>

² SEDENA, request for information folio: 0000700107419. Date of reply: 23 May 2019

³ SEDENA, request for information folio: 0000700107419. Date of reply: 23 May 2019

⁴ Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan 3 E. Méndez, Mission to Mexico, 29 December 2014, A/HRC/28/68/Add.3. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christoff Heyns, Mission to Mexico, 28 April 2014; IACHR, Report on the Situation of Human Rights in Mexico (Washington D.C.: OAS, 2016), 108., OEA/Ser.L/V/II.100, Doc. 7 rev. 1; Statement of the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, on the occasion of his visit to Mexico. 7/10/2015; Report of the Working Group on Enforced and Involuntary Disappearances. Mission to Mexico. A/HRC/19/58/Add.2; Report of the Special Rapporteur on the independence of judges and lawyers, - Report on the mission to Mexico, E/CN.4/2002/72/Add.1.

⁵ IACHR, Report on the Situation of Human Rights in Mexico (Washington D.C.: OAS, 2016), 108., OEA/Ser.L/V/II.100

constitutional reform⁶. The reform⁷ established that the National Guard has a civil character, and it is attached to the Secretariat of Public Security and Protection⁸. However, certain transitory articles of the reform are an evidence of the military character of the reform. It is important to note that the National Guard is composed by the military police, marines and federal police, and the armed forces participate in the design of the structure, rules and procedures.⁹

Despite the fact that the current administration has recognized the high levels of violence, the establishment of the National Guard is an evidence that the Mexican State continues to fail in the adoption of appropriate and effective measures to prevent, investigate and sanction grave human rights violations, in particular, the ones committed during the implementation of a militarized public security policy.

The distrust of the citizenship in the institutions and the high levels of impunity, has caused that more than 90 percent of the crimes committed in Mexico, are never reported to the authorities, which means that the numbers of torture, enforced disappearances and killings are much higher than the official reports.¹⁰

On this shadow report we argue, in accordance to articles 2, 4, 6, 7 and 9 of the International Covenant on Civil and Political Rights, that acts of torture, killings and enforced disappearances are committed in Mexico from December 2006 until today by state agents and organized crime, under systematic and/or generalized patterns of violence. In accordance to the information gathered by the Mexican Commission for the Promotion and Defense of Human Rights (CMDPDH, Spanish acronym), we will argue that these grave human rights violations are not isolated crimes, but crimes against humanity.

⁶ Politic Constitution of the United States of Mexico. Available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/1_090819.pdf.

⁷ Reforma 235: Constitución Política de los Estados Unidos Mexicanos. DOF 26-03-2019 http://www.diputados.gob.mx/LeyesBiblio/ref/dof/CPEUM_ref_235_26mar19.pdf.

⁸ CPEUM art. 21, párr. 11 y 12, http://www.diputados.gob.mx/LeyesBiblio/pdf/1_090819.pdf.

⁹ Transitory articles available at: http://www.diputados.gob.mx/LeyesBiblio/ref/dof/CPEUM_ref_235_26mar19.pdf:

Segundo. La Guardia Nacional se constituirá a la entrada en vigor del presente Decreto con los elementos de la Policía Federal, la Policía Militar y la Policía Naval que determine en acuerdos de carácter general el Presidente de la República. [...]

Sexto. [Durante cinco años] las secretarías de los ramos de Defensa Nacional y de Marina participarán, conforme a la ley, con la del ramo de seguridad, para el establecimiento de su estructura jerárquica, sus regímenes de disciplina, de cumplimiento de responsabilidades y tareas, y de servicios, así como para la instrumentación de las normas de ingreso, educación, capacitación, profesionalización, ascensos y prestaciones, que podrán estar homologados en lo conducente, a las disposiciones aplicables en el ámbito de la Fuerza Armada permanente.

¹⁰ Atrocidades Innegables Confrontando Crímenes De Lesa Humanidad En México, available at: www.opensocietyfoundations.org/sites/default/files/undeniable-atrocities-esp-2nd-edition.pdf

II. **The militarization of public security does not comply with the requirements of exceptionality and temporality established in the General Comment Number 5 and 29 of the article 4 of the International Covenant.** ¹¹

The so-called “war on drugs” had consequently the militarization of public security and the deployment of the military in various areas of the country with the purpose of “strengthening” the police forces. International human rights bodies such as the Inter-American Commission (hereinafter IACHR) and the OHCHR¹², have established that the militarization of public security has increased the levels of violence and human rights violations as well as high levels of impunity.¹³ In four judgments against the Mexican State, the Interamerican Court on Human Rights (hereinafter I/A Court H.R or Court) has warned that the military presence is a risk to human rights guarantees.¹⁴

The militarization of public security in Mexico **has resulted in more than 7,000 civilian detentions annually carried out by both SEDENA and almost 600 detentions by SEMAR.** ¹⁵ **Also from 2006 to 2018, SEDENA was involved in 4,495 confrontations¹⁶ and**

¹¹ 10. Teniendo en cuenta los cambios introducidos al artículo 29 de la Constitución Nacional, sírvanse proporcionar información actualizada acerca del marco normativo que regula los estados de excepción y comentar dicho marco a la luz del artículo 4 del Pacto y de la Observación general No. 29 del Comité (CCPR/C/21/Rev.1/Add.11). Sírvanse también informar si, desde la adopción de las anteriores observaciones finales del Comité, se ha declarado algún estado de excepción o si ha existido alguno de hecho en alguna región y, de ser el caso, sírvanse proporcionar información detallada al respecto. Asimismo, y en relación con las anteriores observaciones finales del Comité (párrafo 11), sírvanse proporcionar información actualizada acerca de las medidas adoptadas y los resultados obtenidos para garantizar que la seguridad pública sea mantenida, en la mayor medida posible, por fuerzas de seguridad civiles y no militares, y en ningún caso por “grupos de autodefensa” o similares.

¹² Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan 3 E. Méndez, Mission to Mexico, 29 December 2014, A/HRC/28/68/Add.3. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christoff Heyns, Mission to Mexico, 28 April 2014; IACHR, Report on the Situation of Human Rights in Mexico (Washington D.C.: OAS, 2016), 108., OEA/Ser.L/V/II.100, Doc. 7 rev. 1; Statement of the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, on the occasion of his visit to Mexico. 7/10/2015; Report of the Working Group on Enforced and Involuntary Disappearances. Mission to Mexico. A/HRC/19/58/Add.2; Report of the Special Rapporteur on the independence of judges and lawyers, - Report on the mission to Mexico, E/CN.4/2002/72/Add.1.

¹³ IACHR, Report on the Situation of Human Rights in Mexico (Washington D.C.: OAS, 2016), 108., OEA/Ser.L/V/II.100

¹⁴ Radilla Pacheco v. Mexico. Preliminary Objections, Merits, Reparations and Costs, Judgment of November 23, 2009. Series C No. 209. Case of Cabrera García and Montiel Flores v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of November 26, 2010. Series C No. 220. García Cruz and Sánchez Silvestre v. Mexico Case. Merits, Reparations and Costs. Judgment of November 26, 2013. Case of Fernández Ortega et al. Case of Fernández Ortega et al. v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 30, 2010 Series C No. 215. Case of Rosendo Cantú et al. v. Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgment of August 31, 2010. Series C No. 216

¹⁵ SEMAR, request for information folio: 0001300054919. Date of reply: 08 May 2019. SEDENA, request for information folio: 0000700055518. Date of reply: 06 April 2018.

¹⁶ SEDENA, solicitud de información folio: 0000700161219. Fecha de respuesta: 14 de junio de 2019. SEDENA, request for information folio: 0000700161219. Date of reply: 14 June 2019.

SEMAR in 398.¹⁷ This also includes granting power that only correspond to civil jurisdiction in several articles of the Military Criminal Procedure Code, which violates human rights in different ways, and which will be developed in the chapter on military jurisdiction later on.

In this context of violence, the military are the ones that have been implicated in human rights violations. The National Human Rights Commission (CNDH, Spanish acronym) has registered an important number of complaints against SEDENA and SEMAR.

185 complaints were filed by the CNDH against SEDENA and 116 against SEMAR for enforced disappearance;¹⁸ 4,604 complaints against SEDENA and 1,107 against SEMAR for torture and cruel, inhuman and / or degrading treatment and 12 complaints against SEDENA for summary or extrajudicial execution.¹⁹

Number of complaints and perpetrator	for torture and cruel, inhuman and / or degrading treatment	for enforced disappearance	for summary or extrajudicial execution.
SEDENA	4,604	185	12
SEMAR	1,107	116	

Similarly, the Special Prosecutor's Office for the Investigation of the Crime of Torture, registered 2,467 criminal investigations against elements of SEDENA and SEMAR for the commission of acts constituting torture. The 70% of these files for the crime of torture identified SEDENA as responsible.²⁰

The recent ruling of the IACHR in the case *Alvarado v. Mexico*,²¹ been reiterated that the maintenance of public order and public security must be the main responsibility of the civil police. In addition, any use of the Armed Forces must be “a) extraordinary...; b) subordinate and complementary to the work of civil corporations ...; c) Regulated, through legal mechanisms and protocols on the use of force ... and; d) Supervised, by competent, independent and technically capable civil bodies”. Notwithstanding with the ruling, the

¹⁷ SEMAR, request for information folio: 0001300055919. Date of reply: 08 May 2019.

¹⁸ CNDH, request for information folio: 3510000037619. Date of reply: 13 May 2019.

¹⁹ CNDH, request for information folio: 3510000023119. Date of reply: 04 April 2019.

²⁰ FGR, request for information folio: 0001700094119. Date of reply: 04 April 2019.

²¹ CORTE INTERAMERICANA DE DERECHOS HUMANOS CASO ALVARADO ESPINOZA Y OTROS VS. MÉXICO SENTENCIA DE 28 DE NOVIEMBRE DE 2018 (Fondo, Reparaciones y Costas) http://www.corteidh.or.cr/docs/casos/articulos/seriec_370_esp.pdf

militarization of public security has not ended, and it has been constitutionalized in the reform that created the NG.²²

In the following chapter, we argue that the creation of the new NG is contrary to General Comments 29 and 5 of this Committee. This General Comment states that “before a State invokes article 4, two fundamental conditions must be met: the situation must amount to a public emergency which threatens the life of the nation, and the State party must have officially proclaimed a state of emergency.”²³ In the case of Mexico the militarization of public security has not been exceptional neither temporary, nor the State has argued that the situation merits the proclamation of a state of emergency to justify the militarization. On the contrary, Mexico has been in a perpetual state of emergency since 2006.

A. National Guard

On March 26, 2019, a constitutional reform was published to create the National Guard as the national institution to be in charged of the public security.²⁴ The National Guard was born as a civilian institution, attached to the Secretariat of Public Security and Protection²⁵, but *de facto* is a militarized security body composed by the military and the navy.

The Constitutional reform has several transitory articles that authorize the Federal Government to deploy the armed forces to carry out public security tasks, in the same way as it has been carried out for the last 12 years. Although the constitutional reform established a maximum of 5 years period in which the armed forces could perform security tasks, three additional laws were adopted to empower the armed forces to continue performing public security tasks in contravention with Mexico’s human rights international obligations.²⁶

²² DECREE amending, supplementing and derogating various provisions of the Political Constitution of the United Mexican States concerning the National Guard. https://dof.gob.mx/nota_detalle.php?codigo=5555126&fecha=26/03/2019 “La Federación contará con una institución policial de carácter civil denominada Guardia Nacional, cuyos fines son los señalados en el párrafo noveno de este artículo, la coordinación y colaboración con las entidades federativas y Municipios, así como la salvaguarda de los bienes y recursos de la Nación. La ley determinará la estructura orgánica y de dirección de la Guardia Nacional, que estará adscrita a la secretaría del ramo de seguridad pública, que formulará la Estrategia Nacional de Seguridad Pública, los respectivos programas, políticas y acciones.”

²³ General Comment No. 29 https://conf-dts1.unog.ch/1%20SPA/Tradutek/Derechos_hum_Base/CCPR/00_2_obs_grales_Cte%20DerHum%20%5BCCPR%5D.html#GEN29

²⁴ DECRETO por el que se reforman, adicionan y derogan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en materia de Guardia Nacional. (DECREE amending, supplementing and derogating from various provisions of the Political Constitution of the United Mexican States concerning the National Guard) https://dof.gob.mx/nota_detalle.php?codigo=5555126&fecha=26/03/2019

²⁵ CPEUM art. 21, párr. 11 y 12, http://www.diputados.gob.mx/LeyesBiblio/pdf/1_090819.pdf.

²⁶ DECRETO por el que se reforman, adicionan y derogan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en materia de Guardia Nacional. (DECREE amending, supplementing and derogating from various provisions of the Political Constitution of the United Mexican States concerning the National Guard..) https://dof.gob.mx/nota_detalle.php?codigo=5555126&fecha=26/03/2019 “

On the other hand, although the NG²⁷ should be properly civil, it was not excluded in the law (article 14) that the commander of the institution belong to the military and, in the requirements of admission to the GN, a term of separation of the armed forces was not foreseen.

In face of these risks, the CNDH filed an appeal for unconstitutionality before the Supreme Court of Justice of the Nation.²⁸ However, as long as the case is resolved, the GN went into operation in much of the territory without a legal basis or decree establishing the objective of NG in certain territories and their temporality. In addition, in August 12, the commander of the National Guard, Luis Rodríguez Bucio, former military and former brigadier general, reported that 58 thousand 602 elements were deployed in the Mexican territory. President Andrés Manuel López Obrador claimed that 56 thousand 191 of them, belong to the Military Police, the Naval Police and the National Defense Secretariat, and 2 thousand 411 belong to the Federal Police.²⁹

On the other hand, on March 2019, three secondary laws to the constitutional reform aimed at the creation of GN were enacted. The Law on the Use of Force, the Law on the record of detentions and the regulatory Law to the National Guard, are a complementary set of rules aimed at the regulation of the GN' operations. It is important to note, that the content of these laws do not comply with the International Covenant and international standards. In addition, during the drafting and adoption of these laws, civil society organizations and/or victims were not involved in the discussion of the laws. Laws as such, must have been subjected to public debate in a broad and transparent discussion, hearing voices from civil society human rights, human rights defenders, victims and others.

B. Law on record of detentions ³⁰

²⁷Decreto por el que se expide la Ley de la Guardia Nacional, https://www.dof.gob.mx/nota_detalle.php?codigo=5561285&fecha=27/05/2019 “**Quinto.** Durante los cinco años siguientes a la entrada en vigor del presente Decreto, en tanto la Guardia Nacional desarrolla su estructura, capacidades e implantación territorial, el Presidente de la República podrá disponer de la Fuerza Armada permanente en tareas de seguridad pública de manera extraordinaria, regulada, fiscalizada, subordinada y complementaria.”

²⁸ Leyes secundarias de la Guardia Nacional podrían ser violatorias de Derechos Humanos: CNDH, available at: <https://www.forbes.com.mx/leyes-secundarias-de-la-guardia-nacional-podrian-ser-violatorias-de-derechos-humanos-cndh/>

²⁹ Guardia Nacional ya tiene desplegados a 58 mil elementos en el país; hay mayor presencia en el Edomex , 13th of August of 2019, available at: <https://www.animalpolitico.com/2019/08/guardia-nacional-mexico-edomex/>

³⁰ Decreto por el que se expide la Ley Nacional del Registro de Detenciones (Decree promulgating the National Detention Registration Act), available at: https://dof.gob.mx/nota_detalle.php?codigo=5561286&fecha=27/05/2019

The Law on the record of detentions was enacted on May 27 2019 according to the constitutional reform that created the National Guard. In the analysis of the law we highlighted with concern that, in accordance to the law, the military forces do not have the obligation to report a detention. In spite of the obligation of article 19, which states that all authorities performing public security task should notify a detention, it is also mentioned that military forces are not obliged to comply with article 19, which means that the law does not oblige military forces to notify detentions.

Likewise, the law foresees reforms to the immigration law with the objective of creating a registry of migrants detained.³¹ It is important to highlight that the immigration law does not establish specific circumstances for migrant detentions. That means that the deprivation of the liberty of migrants does not have parameters within the law that allow assessing the viability, necessity and proportionality of detention on a case-by-case basis. This article is worrisome as it might negatively impact people seeking for international protection. This article and the subsequent reform might trigger the arbitrary use and abuse of detention of migrants.

On the other hand, the law requests that the record of detentions provide information about “addictions, general state of health, chronic or degenerative diseases or conditions”.³² This, in part, criminalize drug users and contributes to a prohibitionist policy that uses criminal law and persecution to address drug consumption. This results contrary to recent decisions of the Supreme Court of Justice on the fundamental right to the free development of personality, where the use of marijuana for recreational or recreational purposes is allowed.³³

C. Law on the Use of Force³⁴

The law on the Use of Force **inhibits the right to demonstrate and associate peacefully**. In the analysis of the law, we find definitions that allow a broad scope of discretion. For example, article 27 states: “peaceful public demonstrations or meetings for lawful purposes”. The fact of qualifying that there are demonstrations with a lawful purpose then supposes that

³¹Id. “Octavo. El Congreso de la Unión contará con un plazo de 180 días a partir de la entrada en vigor del presente Decreto para realizar las reformas necesarias a la Ley de Migración con el objetivo de crear un registro de personas migrantes detenidas que cuente con las mismas garantías procesales, de protección y de seguridad que las previstas en la presente Ley.”

³² Id. **Artículo 23.** La actualización de la información del Registro que lleven a cabo las instituciones de procuración de justicia o administrativas deberá contener, cuando menos, lo siguiente:

³³ La suprema corte da un nuevo paso hacia la legalización de la marihuana en Mexico. availableat: <https://elceo.com/politica/la-suprema-corte-da-un-nuevo-paso-hacia-la-legalizacion-de-la-marihuana-en-mexico/>

³⁴DECREE Issuing the National Law on the Use of Force.), available at: https://dof.gob.mx/nota_detalle.php?codigo=5561287&fecha=27/05/2019

there could be manifestations with an illicit object, which would limit the right to manifestation. Another issue of concern about these regulations is discretion. Since the law does not foresee who would qualify the manifestations of a lawful or illegal object, allows the discretion of the official who applies it. In addition, the condition established by the law of not using firearms when the demonstrations are lawful, could be a source of arbitrariness and human rights violations, in particular on the right to life and integrity.

On the other hand, the law recently adopted, does not comply with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials³⁵ which establish the principles of gradualness when the use of firearms is unavoidable. We share the concerns expressed by the Office in Mexico of the High Commissioner warning that “the same level of information has not been established in the reports on the use of physical or disabling force when weapons are used”.³⁶ The law does not establish the requirements for the use of firearms which include, the proportion to the seriousness of the offence, ensure that assistance and medical aid is provided, and ensure that relatives or close friends of the injured or affected person are immediately notified.³⁷ We therefore deem that the law does not comply with the international standards and shall be subjected to scrutiny by the Committee. The Committee shall make specific recommendations on the regulation of the principle of gradualness when the use of a firearm is inevitable.

III. Right to life; prohibition of torture and cruel, inhuman or degrading treatment or punishment; right to liberty and security of persons, articles 2, 6, 7 and 9 of the list of issues.³⁸

³⁵ United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, available at: <http://www.ordenjuridico.gob.mx/TratInt/Derechos%20Humanos/OTROS%2008.pdf>

³⁶ Avances y preocupaciones en las leyes sobre uso de la fuerza y registro de detenciones, available at: https://www.hchr.org.mx/index.php?option=com_k2&view=item&id=1273:avances-y-preocupaciones-en-las-leyes-sobre-uso-de-la-fuerza-y-registro-de-detenciones&Itemid=265

³⁷ United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, available at: <http://www.ordenjuridico.gob.mx/TratInt/Derechos%20Humanos/OTROS%2008.pdf> 5. Where the use of firearms is inevitable, law enforcement officials shall: (a) Exercise restraint and act in proportion to the seriousness of the offence and the legitimate aim pursued; (b) Minimize harm and injury and respect and protect human life; (c) Proceed in such a way that medical assistance and services are provided as soon as possible to injured or affected persons; (d) Seek to notify, as soon as possible, the relatives or close friends of the injured or affected persons of what has happened.

³⁸ 12. Sírvanse proporcionar información acerca de las medidas adoptadas tanto a nivel federal como estatal para prevenir, investigar y sancionar los abusos y violaciones de derechos humanos cometidos por miembros de las fuerzas armadas o de seguridad incluyendo ejecuciones extrajudiciales, desapariciones forzadas y tortura, así como para garantizar que los mismos actúen de forma compatible con los derechos humanos contenidos en el Pacto. Sírvanse incluir información sobre las medidas adoptadas para regular el uso de la fuerza pública. Sírvanse también acompañar información desde la adopción de las anteriores observaciones finales del Comité sobre: a) el número de denuncias recibidas en relación con violaciones de los derechos humanos presuntamente cometidas por miembros de las fuerzas armadas o de seguridad, indicando la violación de la que se le acusaba y el lugar de comisión de la misma; b) las investigaciones realizadas y las sentencias dictadas, indicando si fueron condenatorias o absolutorias; y c) las medidas de reparación otorgadas a las víctimas.

In this chapter, we will examine how, on the basis of the documentation carried out by the CMDPDH, we identify that the military security policy implemented by the Mexican State is directly correlated with the high rates of serious human rights violations committed by state actors, thereby causing violations of articles 2, 6, 7 and 9 of the Covenant.

In addition we affirm that these grave human rights violations are perpetrated systematically and on a generalized level against civilians, under a policy that permits and does not punish these crimes. Therefore, we argue that they constitute crimes against humanity. In this chapter, we will develop the crimes against humanity committed by security forces.

A. Crimes against humanity committed by security forces

In order to affirm that torture, enforced disappearance and killings in Mexico constitute crimes against humanity, it is necessary to analyze the systematic character of the attack, meaning to prove the "organized character of the acts of violence committed and the improbability of their fortuitous character".³⁹ This systematic character is evident in the deliberate and regular repetition of similar criminal behaviors, where there is a pattern of crimes, whose similarity is not accidental, and there are elements that carry out their organized character, their regular pattern, their execution based on a common policy or with the public or private resources involved.

Attacking the civilian population is another element in asserting that crimes against humanity are being committed. From the cases known by national and international instances, the victims of crimes against humanity are civilians, who at the time of their arrest and subsequent torture were falsely accused of some crime related to organized crime, drug trafficking, kidnapping, carrying weapons for the exclusive use of the army, among the most common. These civilians are mostly victims arbitrarily detained in the so-called "*cacerías*," presented as members or collaborators of cartels⁴⁰. The cases documented by the CMDPDH show a clear pattern of repeated crimes, that is to say, similar cases denoting the improbability of their fortuitous character.⁴¹

³⁹ For further information, see: : https://www.fidh.org/IMG/pdf/rapport_mexique-ld2-1-2.pdf

⁴⁰ México: Asesinatos, desapariciones y torturas en Coahuila de Zaragoza constituyen crímenes de lesa humanidad, Comunicación de acuerdo con el artículo 15 del Estatuto de Roma de la Corte Penal Internacional,; available at: https://www.fidh.org/IMG/pdf/rapport_mexique-ld2-1-2.pdf

⁴¹ Comunicación de acuerdo con el artículo 15 del Estatuto de Roma de la Corte Penal Internacional sobre la presunta comisión de crímenes de lesa humanidad en Chihuahua, México entre 2008 y 2010, available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-comunicacion-cpi-chihuahua-esp-2018.pdf> p.56

In the following section, we will further discuss the generalized and systematic nature of crimes against humanity, including torture, enforced disappearance and executions, and their connection with the obstruction of justice and impunity.

1. Torture

Despite the country's ratification of most international treaties, torture, including the use of sexual violence as a form of torture, continues to be generalized and systematically practiced, despite the adoption two years ago of the General Law to Prevent, Investigate and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

According to the Attorney General's Office (FGR, Spanish acronym), from 2006 to 2018 a total of 10,787 criminal investigations (5,753 preliminary investigations and 5,034 investigation files)⁴² have been initiated for the crime of torture, of which 19.3 percent (2,080 cases) are still pending of resolve.

Of the total of these investigations, from the time of the creation of the Special Prosecutor's Office for the Investigation of the Crime of Torture (FEIDT, Spanish acronym) in 2015 until 2018, the institution has reported initiate a total of 3,375 investigations (2,154 preliminary investigations and 1,221 investigation files).⁴³

On the other hand, the CNDH reports a total of 10,161 complaints of cruel, inhuman and/or degrading treatment⁴⁴ and 373 complaints of torture⁴⁵ from 2006 to 2018.

During the same period, **8,224 complaints** were registered. The following authorities were identified as the perpetrators of acts classified as torture and/or cruel, inhuman and/or degrading treatment: the Federal Police, SEDENA, SEMAR, Office of the Attorney General of the Republic, the National Security Commission (CNS, Spanish acronym), the Secretariat of Security and Citizen Protection (SSPF, Spanish acronym) and the Ministry of the Interior (SEGOB, Spanish acronym)⁴⁶.

⁴² Preliminary inquiries refer to the old criminal justice system and investigation files refer to the new criminal justice system.

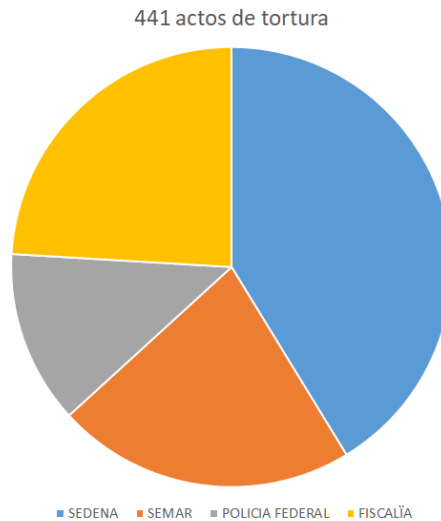
⁴³ It is important to mention that the information submitted by the administrative units consulted by the FGR is carried out within the scope of their respective competences, without this implying that the information is contradictory, since in some cases it is the same event or is complementary.

⁴⁴ CNDH, solicitud de información folio: 3510000023319. Fecha de respuesta: 04 de abril de 2019. CNDH, request for information folio: 3510000023319. Date of reply: 04 April 2019.

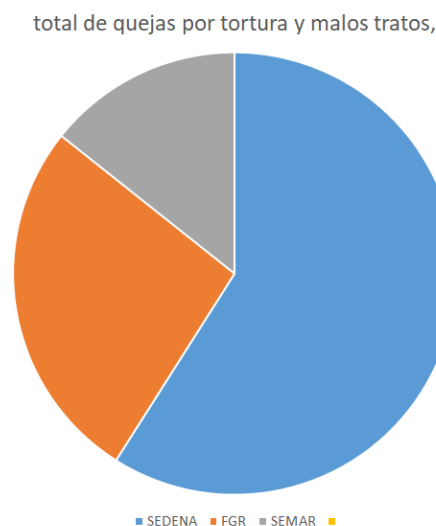
⁴⁵ CNDH, solicitud de información folio: 3510000023219. Fecha de respuesta: 04 de abril de 2019. CNDH, request for information folio: 3510000023319. Date of reply: 04 April 2019.

⁴⁶ CNDH, request for information folio: 3510000015119. Date of reply: 11 March 2019.

Of this number of complaints, 441 were classified as torture⁴⁷, mostly attributable to the Federal Police (175), SEDENA (93), SEMAR (54) and the former Attorney General's Office (102). The rest of the complaints were classified as cruel, inhuman or degrading treatment (7,783)⁴⁸.



It is to note, that torture in Mexico is committed mostly by members of the armed forces, of the total universe of complaints of torture and ill-treatment, 56%, representing 4,604 complaints point to SEDENA as the responsible authority, followed by FGR with 2,084 complaints and SEMAR with 1,116.



Regarding the number of judgments for the crime of torture, the Federal Judiciary Council reported that, from 2006 to 2018, 34 convictions and 15 acquittals were handed down in

⁴⁷ CNDH, requests for information folios: 3510000023019 and 3510000023119. Date of reply: April 04, 2019.

⁴⁸ CNDH, solicitud de información folio: 3510000053317. Actualización a julio 2018: 3510000098918. Fecha de respuesta: 10 de enero de 2019.

relation to 22 criminal causes⁴⁹. This figure differs from some of the judgments reported by the Mexican State before the IACHR⁵⁰. When requesting the public digital version of the judgments for torture, the Federal Judiciary Council (CJF, Spanish acronym) informed us that some of the judgments were reserved because they were still pending or related to organized crime⁵¹. From an analysis of some of the public versions of the sentences to which we were able to access, we know that six are aimed at military personnel.⁵²

It is also important to mention that a large number of the criminal cases that were prosecuted originally as torture ended in a verdict for some other crime such as homicide, abuse of authority and/or clandestine burial of corpses⁵³.

⁴⁹ CJF. Request for information folio: 0320000133119. Date of reply: 13 March 2019.

Criminal cases: 175/2012; 7/2013; 22/2006; 90/2004; 92/2003; 112/2013; 50/2014; 101-2013; 107/2014; 35/1999; 49/2013; 230/2005; 27/2013; 14/2013; 105/2013; 230/2005; 34/2013; 49/2012; 26/2013; 52/2014; 35/2013; 70/2015.

⁵⁰ According to the information provided by the Mexican State in relation to the visit of the IACHR to Mexico, between September 28 and October 2, 2015, there are 15 convictions on torture at the federal level: (1) Case No. 92/2003, Fourth District Court in the state of Chiapas, dated April 19, 2014; (2) Case No. 90/2004, Seventh District Court in the state of Oaxaca, dated February 1, 2006; (3) Case No. 90/2004, Seventh District Court in the State of Oaxaca, dated 19 January 2007; (4) Case No. 22/2006, Fourth District Court in the State of San Luis Potosí, dated 16 August 2011; (5) File Number 35/1999, Second District Court in the state of Morelos, dated October 26, 2006; (6) File Number 35/1999, Second District Court in the state of Morelos, dated March 2, 2007; (7) File Number 35/1999, Second District Court in the state of Morelos, dated April 20, 2007; (8) File Number 35/1999, Second District Court in the state of Morelos, dated November 15, 2012; (9) File Number 35/1999, Second District Court in the state of Morelos, dated May 21, 2013; (10) File Number 175/2012, Seventh District Court in the state of Chihuahua, dated July 16, 2014; (11) File Number 34/2013, Fourth District Court in the state of Chihuahua, dated March 13, 2014; (12) File Number 7/2013, Ninth District Court in the state of Sonora, dated May 22, 2014; (13) File Number 27/2013, Fourth District Court in the state of Michoacan, dated February 11, 2015; (14) File Number 27/2014, Fourth District Court in the state of Michoacan, dated February 11, 2015; (15) File Number 27/2014, Fourth District Court in the state of Michoacan, dated February 11, 2015. IACHR. "Visita de la Comisión Interamericana de Derechos Humanos en México: Información del Estado mexicano", Mexico City, September 25, 2015, Section 1.3, p. 15. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Mexico2016-es.pdf>

⁵¹ The files of criminal cases 35/1999 of the Second District Court in the State of Morelos were classified as reserved and access to them was denied, since they are related to organized crime; as well as 49/2012 of the Tenth District Court in the State of Chihuahua, 27/2013 of the Fourth District Court in the State of Michoacán, and 34/2013 of the Fourth District Court in the State of Chihuahua, since they are criminal proceedings in progress. CJF. Request for public information folio: 0320000078916. CJF, request for information folio: 0320000026918. Date of reply: 16 February 2018.

⁵² CJF, request for information folio: 0320000202018. Date of reply: 11 May 2018.

CJF, request for information folios: 0320000078916. Date of reply: 24 November 2016; 0320000161517. Date of reply: 26 April 2017; 0320000161517. Date of reply: 08 May 2017; 0320000294317. Date of reply: 17 August 2017; 0320000037918. Date of reply: 12 February 2018; 0320000202018. Date of reply: 11 May 2018; 0320000299318. Date of reply: 06 August 2018. From 2006 to July 2018 would be 32 convictions and 18 acquittals, according to request for information folio: 0320000299318.

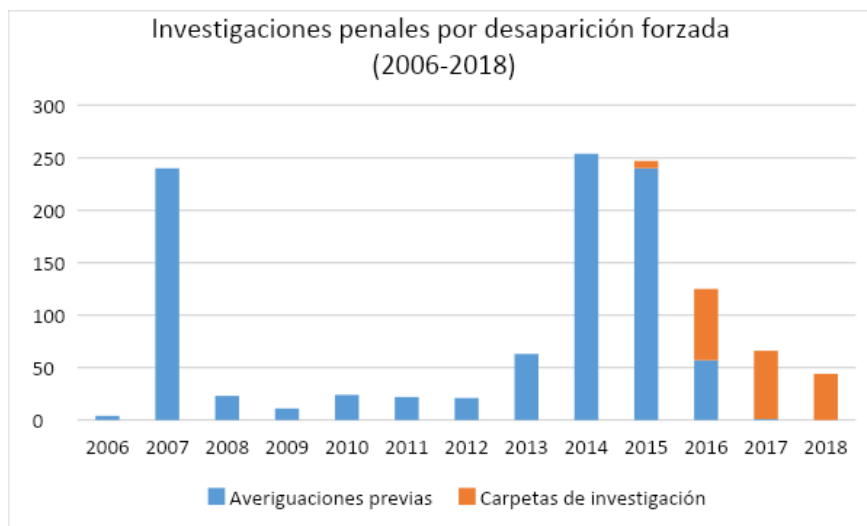
CJF, request for information folio: 0320000161517. Date of reply: 08 May 2018. Folio: 0320000037918. Date of reply: 09 February 2018. CJF. Request for information folio: 0320000299318. Date of reply: 06 August 2018. According to the most recent request, there are also 15 sentences of which we do not know whether they are convictions or acquittals. CJF. Request for information folio: 0320000026918. Date of reply: 16 February 2018. There are also 16 sentences of which we do not know whether their meaning is acquittal or conviction, in addition to five others that have acquittal as conviction, however, there is no specific for what type of crime.

⁵³ In Case 230/2005, the sentence was handed down for manslaughter based on the presumption of premeditation by asphyxiation and torment of the victim, but from the narration of facts we can extract that it is mainly a question of facts constituting torture.

2. Enforced disappearance

Enforced disappearance constitutes one of the most serious violations of human rights, which affects and violates not only the rights of the victims but also their family and their communities. This human rights violation has been a strategy of terror used against the civilian population and committed by members of organized crime and State authorities, and sometimes acting in collusion.

From 2006 to 2018, the FGR reported having initiated 1,144 criminal investigations (960 preliminary investigations and 184 investigation files) for the crime of enforced disappearance and disappearance by private individuals⁵⁴. From this number of investigations, the FGR reported that only 19 previous investigations were brought before judicial institutions, that is, less than 2%.



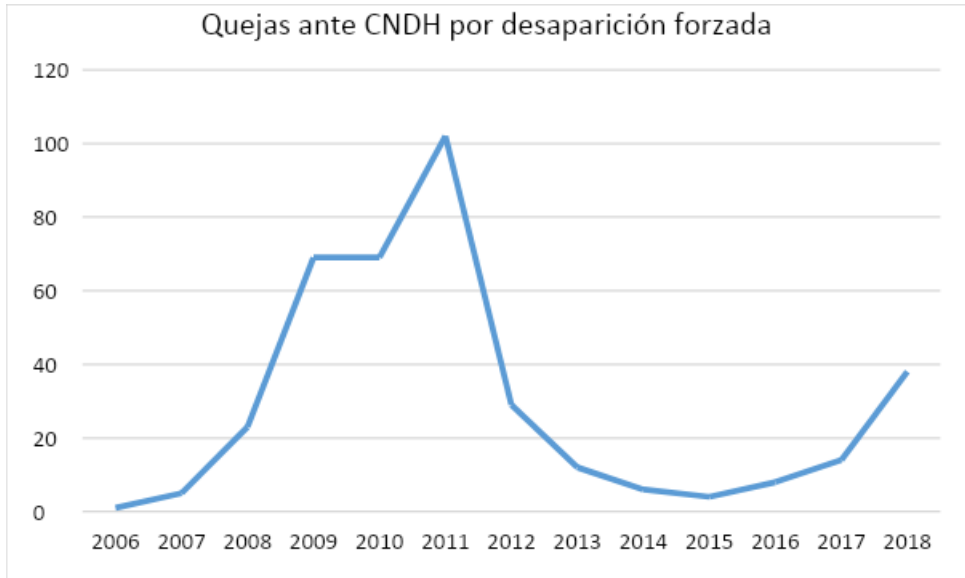
Of the total of these investigations, the Special Prosecutor's Office for the Investigation of Crimes of Forced Disappearance (FEIDDF, Spanish acronym) reported having initiated 125 investigations for the crime of forced disappearance of persons.⁵⁵

In total, the CNDH reports 380 complaints of forced disappearance of persons from 2006 to 2018.⁵⁶

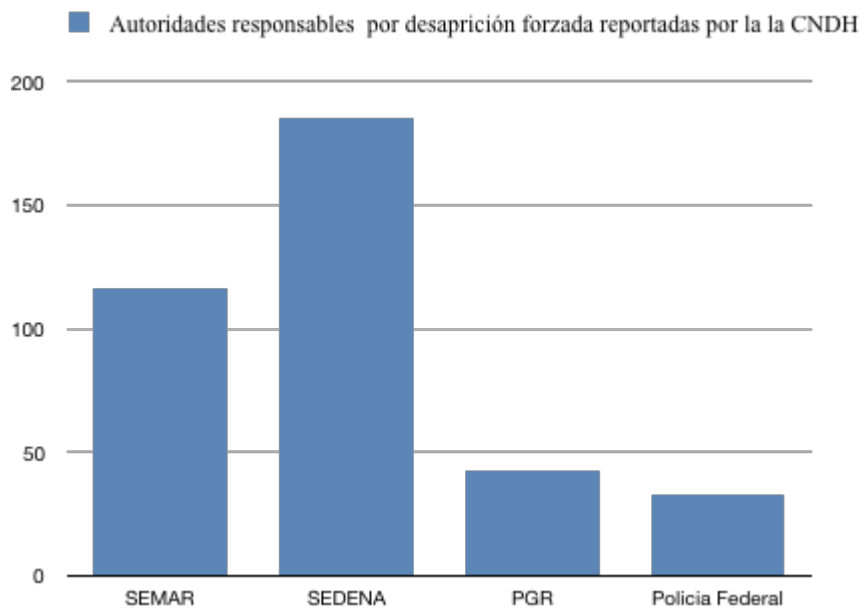
⁵⁴ FGR, solicitudes de información folios: 0001700092419 y 0001700092619. Fecha de respuesta: 02 de abril de 2019. FGR, requests for information folios: 0001700092419 and 0001700092619. Date of reply: 02 April 2019.

⁵⁵FGR, request for information folio: 0001700092419. Date of reply: 02 April 2019.

⁵⁶CNDH, request for information folio: 3510000022419. Date of reply: 03 April 2019.



When requesting a breakdown of the authorities responsible for the violation of forced disappearance, the CNDH alleged to have received mainly complaints against SEDENA (185), 116 against SEMAR, followed by the Attorney General's Office (PGR, Spanish acronym) and the Federal Police with 43 and 33 complaints respectively.⁵⁷



⁵⁷ CNDH, request for information folio: 3510000022419. Date of reply: 03 April 2019.

Impunity in matters of enforced disappearance is so severe that, to date, only 30 convictions and 12 acquittals have been judged in only 13 criminal investigations.⁵⁸

a. Clandestine Graves

Another issue of concern related to enforced disappearance is the presence of clandestine graves throughout the country. On May 28, 2009, Karla Quintana, National Search Commissioner, after 100 days of her direction at the National Search Commission (CNB, Spanish acronym), reported that she has received 481 reports of missing persons, where 15 were located alive, 5 dead and the rest have not been located.⁵⁹ She also expressed that "Mexico continues to be a country of graves, and that there is no day without reporting possible new graves and CNB's obligation is to seek everyone, without distinction". In the first report of the National Search System, the current government identified 426 clandestine graves from December 2018 to June 2019.⁶⁰

In addition, the Human Rights Program of the Universidad Iberoamericana Ciudad de México and the CMDPDH presented a report on the discovery of clandestine graves in Mexico from 2006 to 2017.⁶¹ Among the conclusions, we identified that the phenomenon of clandestine graves is recurrent and widespread, with constant discoveries, present in most of the national territory. There are certain territories that have shown a particularly high degree of violence at certain times, such as Tamaulipas, Durango, Guerrero, Jalisco, Michoacán and Nuevo León. We also identified that **from November 2006 to mid-2017, there were 1,606 clandestine graves with 2,320 bodies, 169 bones and 584 remains or fragments of people in 24 entities of the country.**⁶²

⁵⁸ CJF, request for information folio: 0320000203919. Date of reply: 03 June 2019. Criminal cases: 159/2005; 179/2006; 20/2005; 28/2012; 257/2012; 104/2013; 41/2013; 87/2011; 255/2013; 19/2013; 26/2013; 101/2013; 22/2013.

⁵⁹ En 100 días hallan con vida a 15 de 481 desaparecidos; cinco fallecieron, 28 de mayo de 2019, Proceso, available at: <https://www.proceso.com.mx/585970/en-100-dias-hallan-con-vida-a-15-de-481-desaparecidos-cinco-fallecieron> Desaparecen 481 personas en 100 días Comisión de Búsqueda, El Universal, available at: : <https://www.eluniversal.com.mx/nacion/desaparecen-481-personas-en-100-dias-comision-de-busqueda>

⁶⁰ Primer informe del Sistema Nacional de Búsqueda, Primero Editores, 24 de junio 2019, available at: <http://primeroeditores.com.mx/uncategorized/primer-informe-del-sistema-nacional-de-busqueda/>

⁶¹ Violencia y terror: hallazgos sobre fosas clandestinas en México 2006-2017 / Denise González Núñez, Jorge Ruiz Reyes, Lucía Guadalupe Chávez Vargas, José Antonio Guevara Bermúdez. – México: Universidad Iberoamericana Ciudad de México, 2019. Availabl at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-violencia-y-terror-hallazgos-fosas-clandestinas-2006-2017.pdf>

⁶² Id.

According to the responses to our most recent requests for information, 30 of the 32 state prosecution offices of the Mexican Republic, from 2006 to December 31, 2018 have recorded **2,162 findings of clandestine graves with 4,430 bodies and 765 bone remains.**⁶³

3. Summary Executions

According to figures from the Executive Secretariat of the National Public Security System, the number of investigations for intentional homicides with firearms has increased. In the period from 2006 to 2017, the Secretariat registered 211,926 preliminary investigations and investigation files for intentional homicides. While in 2006, 30% of intentional homicide records were committed with firearms, in 2017, approximately 66% corresponded to the same type of crime.

Homicides have increased by more than 70%; in the first six months of 2019 alone, 17,138 victims of intentional homicide were registered. To date, there is a rate of 14 murders per 100,000 inhabitants⁶⁴, a rise inherited from the previous administrations that has not yet been successfully contained.

From 2006 to 2018, the FGR reported initiating 88 criminal investigations for homicide committed by a public servant, of which only 25 public servants were indicted.

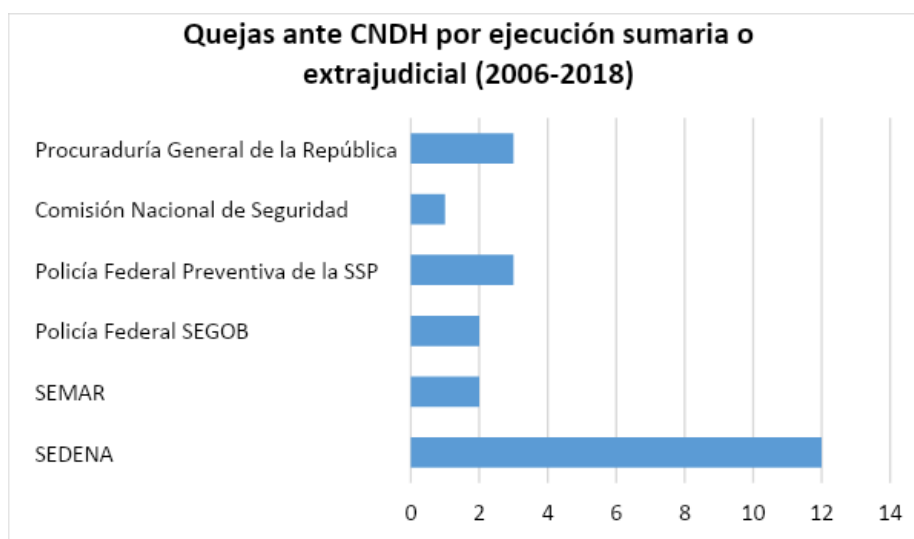
Regarding the number of complaints received by the CNDH, from 2006 to 2018, 19 complaints were filed for summary or extrajudicial execution.⁶⁵ Of these complaints, 12 point to SEDENA as the presumed responsible authority and 2 point to the SEMAR. In addition, four specific recommendations have been issued for serious violations of human rights with respect to the act of violation by summary or extrajudicial execution.⁶⁶

⁶³ Requests for information from 32 state prosecutors' offices, of which only the states of Nayarit and Hidalgo did not provide a response.

⁶⁴ Primer semestre de 2019 deja nuevo récord de homicidios; alza de violencia en 4 años ya rebasa el 70%, Animal Político, available at: <https://www.animalpolitico.com/2019/07/nuevo-record-homicidios-primer-semestre/>

⁶⁵ CNDH, request for information folio: 3510000034919. Date of reply: 09 May 2019.

⁶⁶ CNDH, request for information folio: 3510000034919. Date of reply: 09 May 2019.



Regarding the judgments for the crime of homicide committed by a public servant, we are aware of 48 convictions and 18 acquittals for this crime. Of the judgments that we were able to retrieve from the public digital version, 23 were handed down to elements of the SEDENA, 4 to elements of the SEMAR and 11 to elements of the Federal Police.⁶⁷

4. Forced internal displacement

Another major consequence of this crisis of impunity and violence in Mexico is forced internal displacement. From January to December 2018, the CMDPDH recorded 25 massive episodes of forced internal displacement in Mexico, which are estimated to have affected at least 11,491 people. These displacements occurred in 5 states, 20 municipalities and 52 localities⁶⁸. In total, it is estimated that the number of people who have been forced to flee in Mexico until December 2018 is 338,405.⁶⁹ Forced internal displacement occurs because

⁶⁷ Criminal causes for murder committed by a public servant: 7/2013 4/2016; 5/2013; 6/2013; 24/2001; 37/2013; 40/2013; 43/2013; 58/2009; 78/2009; 90/2009; 95/2009; 111/2010; 128/2012; 131/2013; 201/2011; 204/2012; 259/2011; 263/2012; 27/2013; 16/2013; 126/2008; 233/2011; 90/2006; 107/2012; 1/2015; 220/2011; 237/2011; 39/2012; 38/2009; 2/2010; 34/2013; 48/2013; 75/2015; 109/2012; 117/2012; 123/2008; 195/2013; 392/2012; 139/2012; 147/2012; 141/2012-III; 141/2012; 11/2013-II; 275/2007; 14/2011-III; 47/2014; 148/2016; 58/2010; 104/2013-V; 6/2011-II; 40/2014-III; 74/2011; 157/2012-I; 157/2012; 59/1998; 230/2005; 35/99; 90/2004; 101-2013 IV; 60/2013; 46/2009-I; 123/2012; 78/2009; 37/2013.

⁶⁸ Episodios de Desplazamiento Interno Forzado en México, Informe 2018, CMDPDH available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-episodios-de-desplazamiento-interno-forzado-en-mexico-informe-2018.pdf>

⁶⁹ Episodios de Desplazamiento Interno Forzado en México, Informe 2018, CMDPDH, available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-episodios-de-desplazamiento-interno-forzado-en-mexico-informe-2018.pdf>

civilian population flee to avoid being victims of crime or have already been victims of crimes committed by state actors or criminal organizations.⁷⁰

On another hand, according to information from the National Survey of Victimization and Perception of Public Safety (ENVIPE, Spanish acronym), **8,726, 375 people have been forced to leave their place of residence to protect themselves from crime between 2011 and 2017 in the country.** Moreover, according to data from the National Survey of Demographic Dynamics (ENADID, Spanish acronym), 185,936 people migrated internally for purposes of public insecurity or violence between 2009 and 2014. Finally, information from the National Survey of Occupation and Employment (ENOE, Spanish acronym) indicates the existence of 206,965 people who migrated due to public insecurity between 2006 and the first trimester of 2018.⁷¹

5. *Arraigo* (pre-charged detention)⁷²

The figure of *arraigo* was included to the Mexican Constitution in 2008 as a federal preventive measure to detain those suspected of belonging to organized crime groups. The figure of *arraigo* is a violation to human rights treaties in Mexico and constitutes a form of serious deprivation of physical liberty that violates fundamental norms of international law such as personal liberty, due process and the presumption of innocence. The figure enables a person to be deprived of his or her liberty during a period of up to 80 days while being investigated of any possible charge without the public prosecutor having to accredit a judge that a crime has been committed or that the person is likely to be responsible for it.

From 2012 to 2016, there has been a decrease of almost 98% in the number of people detained under the figure of *arraigo*. Despite this decrease **from 2008 and 2017, 4,172 people were detained under *arraigo* for more than 80 days,**⁷³ in some cases reaching up to 1,280 days⁷⁴. Additionally, between 2006 and 2017 the Federal Ministerial Police reported

⁷⁰ México: Asesinatos, desapariciones y torturas en Coahuila de Zaragoza constituyen crímenes de lesa humanidad, Comunicación de acuerdo con el artículo 15 del Estatuto de Roma de la Corte Penal Internacional, available at: [https:// www.fidh.org/IMG/pdf/rapport_mexique-ld2-1-2.pdf](https://www.fidh.org/IMG/pdf/rapport_mexique-ld2-1-2.pdf)

⁷¹ Entre la invisibilidad y el abandono: un acercamiento cuantitativo al desplazamiento interno forzado en México, available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-entre-la-invisibilidad-y-el-abandano-acercamiento-cuantitativo-al-desplazamiento-interno-forzado-en-mexico.pdf>

⁷² 19. Teniendo en cuenta la recomendación formulada por el Comité en sus anteriores observaciones finales en relación con el *arraigo* (párrafo 15), así como su reiteración en el marco del procedimiento de seguimiento de tales observaciones finales (CCPR/C/107/2), sírvanse informar qué medidas se han adoptado o se prevé adoptar para eliminar la detención mediante *arraigo* de la legislación y la práctica, tanto a nivel federal como estatal.

⁷³ PGR. Solicitud de acceso a la información, número de folio: 0001700105513

⁷⁴ Shadow report to the Committee against Torture (CAT) of the CMDPDH, available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-informe-uncat-2019.pdf> Also see: Observatorio Ciudadano, El uso del *arraigo*..., 48

that 11,397 arraigo orders have been granted, of which 4,022 were related to crimes against public health, 2,242 to kidnapping and 1,578 to terrorism, stockpiling and arms trafficking⁷⁵. This data shows that not only there is an abuse concerning the authorization of the figure of *arraigo*, but that often is exceeded the time limit of the approved detention.

The Supreme Court of Justice of the Nation and multiple international mechanisms for the protection of human rights, including this Committee, have agreed that *arraigo* is a violation of the right to personal liberty, the presumption of innocence and due process of law. In addition, it has been found that persons subjected to *arraigo* are exposed to very serious human rights violations such as torture and other cruel, inhuman or degrading treatment.⁷⁶

The United Nations Committee against Torture (CAT), on the other hand, in its last report on Mexico, had regretted that the State retained in its constitutions this form of deprivation of liberty, although it noted the existence of a proposal of a constitutional reform that, if adopted, would lead to its elimination. While also acknowledging the delegation's explanations, regarding the exceptional nature and reduced use of this precautionary measure. The Committee noted the application of *arraigo*, allows the judicial authority, at the request of the Public Prosecutor's Office, to order the deprivation of liberty of persons presumable members of a criminal organization without a formal charge. In this regard, the Committee reminded its decision related to Ramiro Ramírez Martínez and others v. Mexico (CAT/C/55/D/500/2012, para. 17.5) of August 4 2015, and reiterated its concern about this legal figure. Especially in relation to the absence of control measures, the lack of proportionality in its duration, its accomplishment on occasions in military installations, the complaints of torture presented by persons subjected to this type of detention and the fact that it could encourage the use as evidence of confessions allegedly obtained under torture (arts. 2, 11 and 16).

On April 26, 2018, the Chamber of Deputies approved, with 327 votes, the repeal of the eighth paragraph of Article 16 of the Political Constitution, to eliminate the figure of the *arraigo*, exercised by the judicial authority. The proposal, sent to the Senate of the Republic, indicates that *arraigo* went from being a preventive or ordinary precautionary measure to an exceptional one due to the arbitrary burden it represents. At the time of writing this report, this proposal is to be discussed in the Senate despite calls from the Office in Mexico of the United Nations High Commissioner for Human Rights and the CMDPDH.

6. Military Jurisdiction

⁷⁵ PGR. Request for information folio: 0001700064417

⁷⁶ El arraigo penal como crimen de lesa humanidad, available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-arraigo-2019.pdf>

Both the IACHR and the I/A Court H.R. have stated military jurisdiction, as regulated in Mexico, is not compatible with the American Convention on Human Rights. In 2014, the Military Code of Justice was reformed so that military institutions responsible for investigating, prosecuting, and punishing those responsible for breaches of military discipline could no longer rule over those crimes that constituted human rights violations in cases where the victims were civilians. However, it has not been possible to limit the jurisdiction of military tribunals over human rights cases when the victims are military personnel consequently, failing to comply with international human rights obligations.⁷⁷

The empowerment of the military in matters of public security prompted the issuance of the Military Code of Criminal Procedures (CMPP, Spanish acronym)⁷⁸ despite the fact that Congress did not have the authority to issue this code. Several articles of the Military Code of Criminal Procedure violate human rights in different ways, starting with the fact that its content is a copy of what is established in the National Code of Criminal Procedure, ignoring the fact that the faculties for the police, ministerial personnel and judges are only applicable to civilian authorities and not to the military. Thus, article 21 of the Mexican Constitution states that "public security institutions shall be civilian, disciplined and professional in scope". Taking into account article 129 of the Constitution, which states that: "In time of peace, no military authority may exercise more functions than those that have an exact connection with military discipline." Making the legislation on this matter a violation of human rights.

Also, articles 267, 270 and 271 of the CMPP allows military authorities to intervene in the investigation, from the removal and identification of corpses, in cases where death is presumed due to non-natural causes and under the criteria that military discipline could have been transgress. Similarly, article 286 of the CMPP grants powers to the military authority to access closed places, under the argument of repel a "real, present or imminent aggression without right that endangers the life, integrity or personal freedom of one or more persons". The CMPP authorizes as part of the acts of investigation, the search in residence and public offices, extending this power to offices of the Executive, Legislative or Judicial branches of the three orders of government, and autonomous constitutional bodies. Article 287 of the CMPP allows the military authority to intervene in private communications.

The military criminal jurisdiction is not the competent jurisdiction for the investigation, nor the prosecution of those responsible, nor should the military tribunals carry out actions on properties other than those that correspond to the scope of the Armed Forces, much less

⁷⁷ SEMAR, (2017) request for information folio number 0001300021217. sedena (2017), request for information folio number 0000700038617.

⁷⁸ Code of Military Criminal Procedure, available at: http://www.diputados.gob.mx/LeyesBiblio/pdf/CMPP_210618.pdf

intervene in communications since in this way they would be violating the right to privacy or private life.

We ask the Committee to states on the extra limitations contained in regulations such as the Military Code of Criminal Procedure and the Code of Military Justice by violating the principle of the natural judge and granting military jurisdiction powers that cannot be part of that jurisdiction in accordance with international standards.

B. Crimes committed during the Dirty War⁷⁹

In México, during the seventies and beginning of the eighties, numerous human rights violations were committed in different states of the republic during the so-called “Dirty War”. The Dirty War was a state policy of terrorism aimed at detaining, torturing, executing and disappearing persons that were in favor of social movements mainly in the State of Guerrero. During those years, hundreds of social activist were victims of torture, summary executions and enforced disappearances. These violations continue in absolute impunity until today.

One of the most emblematic cases assessed at the CMDPDH is the case of Mr. Rosendo Radilla, who is an important example that in Mexico forced disappearance is a phenomenon that has been happening since the Dirty War. With regards to the questions raised in the list of issues on the investigations of these serious human rights violations, we wish to provide information on the case of Radilla Pacheco.

1. Case of Rosendo Radilla Pacheco⁸⁰

In August 1974, Mr. Radilla was illegally detained, and disappeared by elements of the Mexican Army. The detention and forced disappearance of Mr. Radilla was reported at the national level and, because of the absence of a response and due diligence from the State, the I/A Court H.R. issued in 2009 its first judgment against the Mexican State for serious human rights violations. **This November 2019 marks the 10-year anniversary of the Court’s ruling, and on August 2019 was the 45th anniversary of Mr. Radilla's disappearance.**

Part of the Court's decision obliged the Mexican State to "investigate those responsible for the detention and disappearance, effective search and location of Mr. Radilla Pacheco, or as

⁷⁹ 13. In light of the Committee's previous concluding observations (para. 12), please provide updated information on measures taken and progress achieved to ensure that serious human rights violations, including those committed during the so-called "dirty war", continue to be investigated; that those responsible are brought to justice and punished with appropriate penalties; and that victims and/or their families receive fair and adequate reparation. In doing so, please provide statistical information.

⁸⁰ For more information: <http://cmdpdh.org/casos-paradigmaticos-2-2/casos-defendidos/rosendo-radilla-pacheco/>

the case may be, of his mortal remains". The actions carried out by the State follow three strategies, including contextual analysis, reconstruction of the chain of command and analysis of the responsibility of former President Luis Echeverría Álvarez and finally the exhaustive search for Rosendo Radilla. The independent expert Carlos Castresana proposed these strategies on this report on February 26, 2015.

These actions have been reported by the Mexican State since that date, without any relevant progress. With regard to the investigation, six criminal complaints have been filed with different bodies; however, the current Office FGR has not charged any crime to any person in relation to the forced disappearance of Rosendo Radilla, nor of hundreds of persons who disappeared during the Dirty War. It is worrisome that, 10 years after the Court's ruling, no significant progress has been made to comply with the investigation of those responsible.

Regarding the exhaustive search for Rosendo Radilla, between March 25 and April 12, 2019, diligences of search procedures were performed. However, the search procedures were shortened in scope and extension, as it was shortened from 4 weeks to 3 weeks of search. On the other hand, the process had financial and logistical obstacles. At the time the excavations began, there was no infrastructure to ensure that the relatives performing the searches could participate in dignified conditions. The excavations were clearly disorganized and there was uncertainty about the sufficiency of resources for the accommodation and food expenses of the National School of Anthropology and History (ENAH) expert team, as well as the payment of travel allowances to the community personnel who would collaborate in the searches. There was a lack of exploration of new areas: far from being excavated in new areas, it was excavated in places previously intervened. This excavation diligence was 3 years late, and the determination of a new date may take another long delay.

In conclusion, there is a concern that the material and intellectual authors of these violations have not been brought to justice and that there is a lack of action aimed at individualizing the responsibilities for enforced disappearances, despite the various recommendations of international organizations and the court ruling of the I/A Court H.R. The case remains unpunished, and the whereabouts of Mr. Rosendo are still unknown.

IV. Violence against women

In 2017, the National Institute of Statistics and Geography (INEGI) noted that information released at the end of 2016 revealed "that violence against women is widespread throughout the country, 30.7 million women have been subjected to violent and discriminatory acts at

some time during their lives.”⁸¹ The Committee on the Elimination of Discrimination against Women (CEDAW) expressed, in this regard, in the Concluding Observations on Mexico's ninth periodic report, its deep concern at the persistence of patterns of widespread use of gender-based violence against women and girls in Mexico, “including physical, psychological, sexual and economic violence, as well as the increase in domestic violence, enforced disappearances, sexual torture and murders, especially femicides.”⁸²

The structural violence against women in Mexico, reported by CEDAW, is expressed in the commission of serious human rights violations, such as disappearance and enforced disappearance, torture and extrajudicial executions, as well as femicide, which occurred due to the failure of the State to fulfil its obligations to guarantee and implement the rights recognized in the Covenant through prevention and protection. These serious violations of human rights affect the rights of women in Mexico to life, not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, to liberty and security of person, and to legal personality.

A. Disappearances of women, adolescents and girls

The disappearance of women, adolescents and girls in Mexico, including enforced disappearance, is of a special magnitude. The Inter-American Commission on Human Rights (IACHR) stated in its report on the human rights situation in Mexico in 2015 that “cases of disappearance and enforced disappearance of women and girls occur in various areas of the country.”⁸³ CEDAW also referred, in its 2018 Concluding Observations on Mexico, to “the high incidence of enforced disappearances affecting women.”⁸⁴ Likewise, the United Nations Children's Fund (UNICEF), in the framework of the presentation of its report on the “Statistical Panorama of Violence against Children and Adolescents”⁸⁵, expressed last July its concern about the feminization of disappearances in childhood and adolescence in Mexico.

⁸¹INEGI. Estadísticas a propósito del día internacional de la eliminación de la violencia contra la mujer [Statistics on the International Day for the Elimination of Violence against Women] (25 de noviembre)”, 23 de noviembre de 2017, p. 4. Available at https://www.inegi.org.mx/contenidos/saladeprensa/aproposito/2017/violencia2017_Nal.pdf

⁸² Cf. Comité para la Eliminación de la Discriminación contra la Mujer. Observaciones finales sobre el noveno informe periódico de México [Committee on the Elimination of Discrimination against Women. Concluding Observations on the ninth periodic report of Mexico]. CEDAW/C/MEX/CO/9, 25 de julio de 2018, párr. 23.a).

⁸³ CIDH [IACHR]. Situación de derechos humanos en México [Situation of human rights in Mexico]. OEA/Ser.L/V/II. Doc. 44/15, 31 diciembre 2015, párr.179. Available at <http://www.oas.org/es/cidh/informes/pdfs/Mexico2016-es.pdf>

⁸⁴ Comité para la Eliminación de la Discriminación contra la Mujer. Observaciones finales sobre el noveno informe periódico de México [Committee on the Elimination of Discrimination against Women. Concluding Observations on the ninth periodic report of Mexico]. CEDAW/C/MEX/CO/9, 25 de julio de 2018, párr. 23.d).

⁸⁵ Consult the report: <https://www.unicef.org/mexico/informes/panorama-estad%C3%ADstico-de-la-violencia>

To the disappearance of women, adolescents and girls is added the fact, also highlighted by CEDAW⁸⁶, that it is women who assume, in almost all cases, the search for their missing relatives, suffering institutional violence and putting their lives and personal integrity at serious risk in many cases. This fact is reflected in the precautionary measures that the Committee against Enforced Disappearance has ordered Mexico, in several Urgent Actions, to protect the life and integrity of mothers and sisters who seek, in various states of the Republic, their missing loved ones. The anguish, despair and uncertainty generated by the disappearance of their loved ones, in most cases, are transformed and somatized into headaches, insomnia, skin rashes, hair loss, etc. The mental and physical exhaustion of women dedicated to the search for their loved ones generates health problems such as hypertension, diabetes, cancer and even heart attacks, which are generally not being addressed by the authorities. In many cases, the Executive Commission for Victim Care (CEAV) does not cover the costs of certain ailments, arguing that there is no correlation between the disease and the victimizing event⁸⁷. These situations affect women's right to personal integrity.

Regarding the number of missing women, adolescents and girls in Mexico, although the National Search Commission recognized that there are more than 40,180 missing persons in the national territory, the official register (National Registry of Lost or Disappeared Persons-RNPED) ceased to be fed since April 2018, so the number of victims disappeared in the country in the last 20 months is unknown so far. However, in April 2018, the date on which RNPED was last updated, a total of 37,435 persons were reported missing in Mexican territory (36,265 in the common jurisdiction and 1,170 in the federal jurisdiction), of whom 9,522 were women, including 4,192 girls and adolescents.

The states with the highest number of cases of missing women, adolescents and girls are the State of Mexico (1,785), Tamaulipas (1,274), Puebla (1,046) and Nuevo León (760). While the national average percentage of missing women, adolescents and girls is 26 per cent, it is more than double in states such as Quintana Roo (54 per cent), Oaxaca (52 per cent) and Tabasco (52 per cent). The other states that have a higher rate than the national average are: Puebla (51%), Aguascalientes (49%), Estado de México (46%), Chiapas (48%), Mexico City (44%), Tlaxcala (42%), Hidalgo (41%) Baja California (40.5%), Morelos (40%), Campeche (37%), Yucatán (32%), Querétaro (31%), Colima (30.5%) and Sonora (30%).

⁸⁶ See, Comité para la Eliminación de la Discriminación contra la Mujer. Observaciones finales sobre el noveno informe periódico de México [Committee on the Elimination of Discrimination against Women. Concluding Observations on the ninth periodic report of Mexico]. CEDAW/C/MEX/CO/9, 25 de julio de 2018, párr. 23, d).

⁸⁷ Consult: <https://www.idheas.org.mx/comunicaciones-idheas/noticias-idheas/niega-ceav-atencion-medica-a-familiares-de-personas-desaparecidas/>.

In spite of the fact that the Mexican State adopted, since 2007, the General Law on Women's Access to a Life Free of Violence,⁸⁸ these figures show the high level of risk that women have of being victims of disappearance in any state of the Republic and the urgency that exists for the State to adopt, in accordance with its obligations to guarantee to all persons under its jurisdiction the rights recognized in the Covenant, relevant and effective policies and legislative, judicial and administrative measures to prevent and avoid that women, adolescents and girls become victims of disappearance.

Now, it is important to remember, with respect to the figures on missing women, adolescents and girls in Mexico, that the Inter-American Commission on Human Rights expressed, in the same report of 2015, that “there is a serious problem in the registration of missing women and girls.”⁸⁹ CEDAW also referred, in its 2018 Concluding Observations, to the limited statistical data on “violence against women disaggregated by type of violence and relationship between perpetrator and victim”, and recommended that Mexico strengthen “mechanisms for the systematic collection of data on violence against women and girls, including femicide, and enforced disappearances, disaggregated by type of violence and relationship to perpetrators.”⁹⁰ The Working Group on Enforced and Involuntary Disappearances had also referred, in 2011, to the lack of publicly available information on women victims of enforced disappearance, and in its follow-up report to its 2015 recommendations it again noted “the lack of information on public policies and results in specific cases of women victims of enforced disappearances.”⁹¹

The lack of public records, complete and disaggregated by the type of disappearance on missing women, adolescents and girls prevents us from knowing, for example, how many of the 9,522 disappeared women, registered as of April 2018 in the RNPED, are victims of enforced disappearance. In addition, as CEDAW has pointed out, crimes committed against women, including disappearance, are often perpetrated by state and non-state actors, including organized crime groups.⁹² The enforced disappearance of women, adolescents and

⁸⁸ Available at http://www.diputados.gob.mx/LeyesBiblio/pdf/LGAMVLV_130418.pdf#targetText=La%20presente%20ley%20tiene%20por,de%20los%20Estados%20Unidos%20Mexicanos.

⁸⁹ CIDH [IACHR]. Situación de derechos humanos en México [Situation of human rights in Mexico]. OEA/Ser.L/V/II. Doc. 44/15, 31 diciembre 2015, párr.181.

⁹⁰ Comité para la Eliminación de la Discriminación contra la Mujer. Observaciones finales sobre el noveno informe periódico de México [Committee on the Elimination of Discrimination against Women. Concluding Observations on the ninth periodic report of Mexico]. CEDAW/C/MEX/CO/9, 25 de julio de 2018, párr. 24.g).

⁹¹ United Nations. Human Rights Council. Report of the Working Group on Enforced or Involuntary Disappearances. Addendum. Follow-up report to the recommendations made by the Working Group. Missions to Mexico and Timor Leste. A/HRC/30/38/Add.4, 11 September 2015, par.33.

⁹² See Comité para la Eliminación de la Discriminación contra la Mujer. Observaciones finales sobre el noveno informe periódico de México [Committee on the Elimination of Discrimination against Women. Concluding Observations on the ninth periodic report of Mexico]. CEDAW/C/MEX/CO/9, 25 de julio de 2018, párr. 23.b).

girls, in which State agents linked to criminal structures participate, may be related, among other crimes, to trafficking in persons.⁹³ However, this is not reflected in figures that are publicly accessible. This opacity in the figures makes it difficult, as the IACHR, CEDAW and the Working Group on Enforced and Involuntary Disappearances have pointed out, for effective policies and measures to prevent the enforced disappearance of women, adolescents and girls to be adopted at the federal and state levels.

B. Torture and other cruel, inhuman or degrading treatment or punishment

The prohibition of torture is, as the Committee against Torture has noted, an absolute and peremptory norm of customary international law. However, women and adolescents arrested or detained in Mexico are victims of torture. The Inter-American Commission on Human Rights and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment have expressed, in this regard, their concern about sexual torture and gender-based torture committed against women in detention or deprived of their liberty by State agents.⁹⁴ The Special Rapporteur has noted that women detained in Mexico are victims of “forced nudity, verbal insults and humiliation, fondling of the breasts and genitals, insertion of objects into the genitals and repeated rape and by several people.”⁹⁵ The Inter-American Court of Human Rights, in the *Case of Women Victims of Sexual Torture in Atenco v. Mexico*, found that the women in this case had been “beaten, insulted, mistreated and subjected to various forms of sexual violence by multiple police officers at the time of their detention, during their transfers and at the time of their entry into CEPRESO (State Center for Social Prevention) [prevention and readaptation penitentiary].”⁹⁶

On the basis of information received by IDHEAS from various states, there is a register of women victims of torture in several states of the Republic. According to the information received, and in order of number of victims, in the state of Baja California, the number of

⁹³ See <http://www.contralinea.com.mx/archivo-revista/index.php/2016/06/12/desaparicion-masiva-de-ninas-y-adolescentes-relacionadas-con-prostitucion-forzada-en-mexico/> See also, Hispanics in Philanthropy, *Una mirada desde las organizaciones de la sociedad civil a la trata de personas en México [A Civil Society Perspective on Human Trafficking in Mexico]*, 2016, p. 29. Available at http://www.senado.gob.mx/comisiones/trata_personas/docs/trata.pdf

⁹⁴ On this subject, CIDH [IACHR]. *Situación de derechos humanos en México [Situation of human rights in Mexico]*. OEA/Ser.L/V/II. Doc. 44/15, 31 diciembre 2015, párr.247 y Naciones Unidas. Consejo de Derechos Humanos. Informe del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes [Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment], Juan E. Méndez. Adición. Misión a México. A/HRC/28/68/Add.3, 29 de diciembre de 2014, párr. 28.

⁹⁵ Naciones Unidas [United Nations]. Consejo de Derechos Humanos. Informe del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes [Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment], Juan E. Méndez. Adición. Misión a México. A/HRC/28/68/Add.3, 29 de diciembre de 2014, párr. 28.

⁹⁶ See, Corte IDH. *Caso Mujeres Víctimas de Tortura Sexual en Atenco Vs. México [Case of Women Victims of Sexual Torture in Atenco v. Mexico]*. Excepción Preliminar, Fondo, Reparaciones y Costas. Sentencia de 28 de noviembre de 2018. Serie C No. 371, párr. 188.

women victims of torture registered by the State Prosecutor's Office is 165. The Puebla State Prosecutor's Office reported 143 women victims of torture. The Prosecutor's Office of Aguascalientes has, in turn, registered 110 cases of women victims of torture. Likewise, in the state of Chihuahua, the State Prosecutor's Office reported 67 women victims of torture. In the states of Nuevo León and San Luis Potosí, the number of women victims of torture is 12, according to information from the prosecutors' offices in each of these two states. It is of concern that states such as Coahuila, Mexico City, Jalisco, the State of Mexico, Sonora, Veracruz and Yucatan in their responses to requests for public information indicate “that the level of disaggregation requested by the petitioner is not available, namely that the numbers of masks related to the crime of torture are not disaggregated by age range or sex of the victims.” The lack of information disaggregated by the profile of the victims represents an obstacle to knowing clearly the number of women victims of torture in these entities.

From the information received from these federative entities, it also appears that torture is committed against women regardless of their age. Of the prosecutors' offices that provided age-disaggregated information, victims of torture are between 18 and 49 years of age.

Despite the reluctance of public prosecutors to register and investigate allegations of torture, a fact that was noted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in his 2014 report on his mission to Mexico,⁹⁷ the figures received by us show a high number of women victims of torture in different states of the Republic. The continuity of torture against women and adolescents, despite the existence of reports and decisions by international human rights bodies, including the IACHR, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Inter-American Court of Human Rights, in which the Mexican State has been asked to adopt all necessary measures to prevent torture, shows that the State has not complied with these recommendations and what is more delicate is that it has not complied with the duty of *ius cogens* to prohibit and prevent torture from being committed.

C. Intentional homicides, extrajudicial executions and femicides

As noted above, Mexico has accumulated alarming numbers of intentional homicides as a result of a military-style security policy, resulting in violations of article 6.

With regard to women, the figures, as will be shown below, include acts of intentional homicide and acts described by the State itself as femicide. The Committee has considered, on femicide, that “it constitutes an extreme form of gender-based violence directed against

⁹⁷ Cf. Naciones Unidas. Consejo de Derechos Humanos. Informe del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes [Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment], Juan E. Méndez. Adición. Misión a México. A/HRC/28/68/Add.3, 29 de diciembre de 2014, párr. 34.

girls and women” and “it is a particularly serious form of attack on the right to life.”⁹⁸ Femicide is one of the most serious human rights violations affecting the human rights of women in Mexico, specifically the right to life. The Committee against Torture, in its Concluding Observations on Mexico's seventh periodic report, expressed “its deep concern at the number of women murdered in the State party during the period under review.”⁹⁹

According to data from the Executive Secretariat of the National Public Security System (SESNSP)¹⁰⁰, in recent years, there has been an upward trend in the number of alleged cases of intentional homicide against women, with a total of 1,735 cases registered in 2015, 2,191 in 2016, 2,535 in 2017, 2,781 in 2018 and 1,610 between January and July of this year. Of these last 1,610 cases, the states with the highest number of cases are the State of Mexico (207), Guanajuato (157), Jalisco (145), Baja California (135) and Chihuahua (104). While the national rate for women victims of intentional homicides is 2.5 per 100,000 women, Colima has a rate of 12.75, more than five times higher than the national rate. The situation of Baja California (7.34), Chihuahua (6.28), Guerrero (5.52), Guanajuato (5.03) is also of concern.

Likewise, another state entity, INEGI (National Institute of Statistics and Geography), recorded in 2016 that 2,813 women were murdered, of which 420 were adolescents and girls between 19 years and less than one year of age.¹⁰¹ Of this total, 48% were killed with firearms.¹⁰² The INEGI said, on these figures, that the number of women killed was “the highest recorded in the last 27 years - 1990 to 2016 - above those recorded in 2011 (2,693) and 2012 (2,764).”¹⁰³ However, in 2017 the figure recorded by INEGI was 3,430 women murdered, of whom 501 were teenagers and girls between 19 years and less than one year of age.¹⁰⁴ And in 2018, the INEGI recorded a higher figure of 3,663 murdered women, of which 537 were teenagers and girls between 19 years and less than one year of age.¹⁰⁵

⁹⁸ Human Rights Committee. General comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36, 30 October 2018, párr. 61.

⁹⁹ Comité contra la Tortura [Committee Against Torture]. Observaciones finales sobre el séptimo informe periódico de México [Concluding observations on the seventh periodic report of Mexico]. Versión avanzada no editada, párr. 58.

¹⁰⁰ See, Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública [Executive Secretariat of the National Public Security System]: <https://drive.google.com/file/d/1BrVmYqc4oVTWylAXiPabXX71hWaWOaB5/edit>

¹⁰¹ See, INEG https://www.inegi.org.mx/sistemas/olap/consulta/general_ver4/MDXQueryDatos.asp?c=

¹⁰² See, INEGI. Estadísticas a propósito del día internacional de la eliminación de la violencia contra la mujer [Statistics on the International Day for the Elimination of Violence against Women] (25 de noviembre), 23 de noviembre de 2017, p. 20.

¹⁰³ INEGI. Estadísticas a propósito del día internacional de la eliminación de la violencia contra la mujer [Statistics on the International Day for the Elimination of Violence against Women] (25 de noviembre), 23 de noviembre de 2017, p. 11.

¹⁰⁴ See, INEGI https://www.inegi.org.mx/sistemas/olap/consulta/general_ver4/MDXQueryDatos.asp?c=

¹⁰⁵ https://www.inegi.org.mx/sistemas/olap/consulta/general_ver4/MDXQueryDatos.asp?c=

According to the data¹⁰⁶ of SESNSP there is also an upward trend in the alleged crimes of femicide ¹⁰⁷ with a record of 411 cases in 2015, 601 in 2016, 742 in 2017, 880 in 2018 and 540 between January and July 2019. Of these last 540 cases, it can be observed that the states with the highest number of cases are Veracruz (114), the State of Mexico (53 cases), Puebla (36), Nuevo León (32), Mexico City (26). Of concern is the situation of states that have a higher rate than the national average for cases of femicide (0.84 per 100,000 women), such as Veracruz (2.67), Morelos (2.11), Sonora (1.55), Tabasco (1.51) and Sinaloa (1.47). In relation to the age of the presumed victims, SESNSP data show a worrying increase in cases of femicide against minors (0-17 years) with a record of 50 cases in 2015, 57 in 2016, 66 in 2017, 88 in 2018 and 60 between January and July 2019, with the State of Mexico, Veracruz and Puebla being the states with the highest number of cases.

This gradual and qualitative increase in the number of intentional homicides of women, as well as in acts classified by the State itself as femicides, shows that the State has not acted, as is its duty, with the due diligence required to protect the lives of women, adolescents and girls against acts committed by persons whose conduct would not, in principle, be directly attributable to State agents, and to prevent such acts from being committed and repeated.

In addition to being victims of intentional homicides and femicide, women in Mexico are also victims of extrajudicial executions. In this regard, the information provided to us by the Prosecutor's Offices of several states, for example, shows that the Prosecutor's Office of the State of Aguascalientes has registered two cases of women victims of extrajudicial executions. In the State of Chihuahua, the State Prosecutor's Office reported 5 cases of women victims of extrajudicial execution, and the Mexico City Prosecutor's Office reported 1,085 women victims of extrajudicial execution. In these cases, the State has failed in its obligation to respect the right to life of women victims of such acts and to adopt the necessary measures to prevent and deter their agents from committing such acts. It is of concern that federal entities such as Coahuila, Jalisco, Estado de México, Sonora, Veracruz and Yucatán, in their responses to requests for public information, report “no processing of information regarding the sex and age of the victim.” The lack of information disaggregated by the profile of the victims represents an obstacle to knowing clearly the number of women victims of extrajudicial executions in these entities.

According to article 2, paragraph 3, of the Covenant, it is the duty of the State to ensure an effective remedy to any person whose rights or freedoms recognized in the Covenant have been violated. In relation to the violation of the right to life, the Committee has noted in this

¹⁰⁶ See, Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública [Executive Secretariat of the National Public Security System]: <https://drive.google.com/file/d/1BrVmYqc4oVTWylAXiPabXX71hWaWOaB5/edit>

¹⁰⁷ The accounting of the crime of femicide was carried out in accordance with its classification in the states, which has taken place gradually over the last seven years, with the 32 federative states being completed by October 2017.

regard that States parties to the Covenant must ensure that the perpetrators are brought to justice. In this regard, on the femicides that occurred in Mexico, the Inter-American Commission on Human Rights noted in its report on the situation of human rights in Mexico in 2015 that most cases of femicide “remain in impunity.”¹⁰⁸ As the National Citizen Observatory on Femicide (OCNF) has pointed out, only a small percentage of women's murders are investigated as femicide. According to OCNF, of the 6,297 murders of women they had recorded from 2014 to 2017, based on information from 25 states of the Republic, only 1,886 had been investigated as femicide, that is, as OCNF points out, only 30% had been investigated as femicide.¹⁰⁹

In the same vein, we have found, according to information provided to us by the Special Prosecutor's Office for Human Rights and the Special Prosecutor's Office for Crimes of Violence against Women and Trafficking in Persons (FEVIMTRA), that, at the federal level, that is, at the Office of the Attorney General of the Republic, from 2012 to June 2019, only eight preliminary investigations had been initiated for the crime of femicide. This figure contrasts sharply with the number of women murdered in 2016 (2,813), 2017 (3,430) and 2018 (3,663), according to the official registry of INEGI. Added to this is the total lack of sanctions in the federal order. According to information provided by the Federal Judiciary Council, on August 13, 2019, at the federal level, no sentence had been issued for the crime of femicide. In other words, as the IACHR has expressed, impunity continues to characterize the State's response to the femicides committed against women, adolescents and girls in Mexico.

VI. Conclusions and recommendations

A. Conclusions

1. The militarization of public security has resulted in alarming numbers of murders, torture and enforced disappearances. Its generalized and systematic nature, against the civilian population through the implementation of a security policy aimed at combating drug trafficking, meets the requirements

¹⁰⁸ CIDH [IACHR]. Situación de derechos humanos en México [Situation of human rights in Mexico]. OEA/Ser.L/V/II. Doc. 44/15, 31 diciembre 2015, párr.243.

¹⁰⁹ Cf. Observatorio Ciudadano Nacional del Femicidio [National Citizen Observatory on Femicide]. Informe implementación del tipo penal de feminicidio en México: desafíos para acreditar las razones de género 2014-2017 [Report on the Implementation of the Penal Type of Femicide in Mexico: Challenges for the Accreditation of Gender Reasons 2014-2017], Ciudad de México, p.35. Available at https://docs.wixstatic.com/ugd/ba8440_66cc5ce03ac34b7da8670c37037aae9c.pdf The States indicated by the National Citizen Observatory of Femicide are: Aguascalientes, Campeche, Chiapas, Colima, Chihuahua, Mexico City, Coahuila, Durango, State of Mexico, Guanajuato, Hidalgo, Jalisco, Michoacán, Morelos, Nuevo León, Oaxaca, Puebla, Querétaro, Quintana Roo, Sinaloa, Sonora, Tabasco, Tlaxcala, Veracruz and Zacatecas.

for considering that atrocious crimes, constituting crimes against humanity are committed in Mexico.

2. The deployment of armed forces is directly correlated with the high rates of serious human rights violations committed in Mexico and has increased the illegal and indiscriminate use of force, facilitating the commission of crimes such as murder, torture and forced disappearance.
3. The recent creation of the National Guard is a threat to the human rights of citizens, does not solve the country's security problems and perpetuates the military paradigm of public security.
4. The militarization of public security has been neither exceptional nor temporary, nor has the State argued that the situation merits a state of exception to justify militarization. On the contrary, there seems to be a *de facto* state of emergency.
5. Another serious consequence of impunity and violence crisis in Mexico is the forced internal displacement. It is estimated that 338,405 persons have been forcibly displaced in the country.
6. It is worrying that the crimes committed during the Dirty War remain unpunished. Particularly in the case of Rosendo Radilla, the material and intellectual authors of these violations have not been brought to justice, and there is still a lack of action to individualize the responsibilities for forced disappearance, despite the various recommendations of international organizations and the court ruling of the I/A Court H.R.
7. The structural violence against women in Mexico is expressed in the commission of serious human rights violations, such as enforced disappearance and disappearance, torture and extrajudicial executions, as well as femicide. This occurs because of the State's failure to fulfill its obligations to guarantee the right to life.
8. Structural violence against women in Mexico is expressed in the commission of serious human rights violations, such as enforced disappearance and disappearance, torture and extrajudicial executions, as well as femicides, which occur because of the State's failure to comply with its obligations to guarantee and give effect to its rights to life, not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment, to personal freedom and security, and to legal personality.
9. The limited statistical data on violence against women, disaggregated by type of violence and the relationship between the perpetrator and the victim,

continues to be a problem that hinders the adoption at the federal and state levels of effective policies and measures to prevent such violence.

B. Recommendations

1. To establish a complementary International Mechanism against Impunity in Mexico (MICIM)¹¹⁰ to address impunity, with the mandate to investigate and prosecute crimes affecting legal property related to liberty and personal integrity and/or life.¹¹¹
2. To eliminate the legal figure of *arraigo* from the Constitution and all legislation.
3. To reform the Military Justice Code to ensure that all human rights violations fall under the competence of civil authorities.
4. To eliminate the figures of pretrial detention from the Constitution and legislation, ensuring that the decisions regarding the adoption of such measures left to the discretion of the judges and is performed on a case-by-case basis and use only when other alternative measures prove ineffective.
5. To elaborate a calendarized plan to abolish the involvement of military personnel in public security tasks, based on a diagnosis built on evidence, and partial and independent indicators.
6. To ensure that all allegations of crimes against humanity (torture, executions, enforced disappearance) are investigated impartially and independently, including the pending events of the Dirty War.
7. To ensure that those responsible for atrocity crimes are prosecuted and punished both criminally and administratively; and that both the perpetrators and those who ordered, tacitly or explicitly consented to, or did not prevent or report crimes against humanity are investigated and punished with sanctions commensurate with the severity of the crime.

¹¹⁰ Recomendación realizada por Dinamarca en el marco del EPU, “el establecimiento de un mecanismo independiente y eficaz para combatir la impunidad, con un mandato para investigar crímenes atroces, violaciones de derechos humanos y los actos de corrupción.”

¹¹¹ <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-justicia-transcional-2019.pdf>

8. To ensure that all allegations of human rights violations committed by the armed forces are investigated and prosecuted with due diligence by civilian authorities, and that their judgments are public.
9. To strengthen mechanisms for the systematic collection of data on violence against women and girls, including enforced disappearances, extrajudicial executions, feminicides, torture and disaggregated by type of violence and relationship with perpetrators.
10. To design and implement a public policy at the federal and state levels for the prevention and treatment of cases of enforced disappearance and by private individuals. In particular, of women, girls and adolescents, as well as specific protection programs aimed at women relatives of persons whose lives and personal integrity are at risk because of their work in the search for truth and justice.
11. To strengthen mechanisms for the systematic collection of data on violence against women and girls, including enforced disappearances, extrajudicial executions, femicides, torture and disaggregated by type of violence and relation to perpetrators.