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THE CONTINUITY
OF THE HUMAN
RIGHTS CRISIS



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Since being founded by the Jesuits in 1988, the MIGUEL AGUSTÍN PRO JUÁREZ HUMAN RIGHTS CENTER (Center Prodh) has worked to defend, promote and increase respect for human rights in Mexico, with a focus on social groups that find themselves in situations of vulnerability such as indigenous populations, women, migrants and victims of social repression.

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THE TRANSITION TO A NEW RULING PARTY IN MEXICO'S FEDERAL GOVERNMENT

gave rise to enormous expectations about the possibility of advancing much-needed changes in Mexico. Thus far, with respect to human rights, the result has been mixed, with examples both of positive actions aimed at reversing the persistent human rights crisis in the country, as well as actions in the opposite direction.

Among the positive actions, we take note of: the appointment of competent officials within certain key areas of government agencies, such as the Ministry of the Interior; the government's public acknowledgement of responsibility in cases of human rights violations that profoundly hurt victims and society; the elimination of the Presidential Guard ("Estado Mayor Presidencial"); the reclaiming of spaces to remember the atrocities that took place during Mexico's Dirty War; the acknowledgement in international fora of the human rights crisis; criminal proceedings in some emblematic cases of corruption; and a renewed impulse for the social rights and labor rights agenda. Moreover, some of the cases that we have been accompanying for various years are beginning to advance – such as the Ayotzinapa and Pasta de Conchos cases.

These measures contrast with other, negative actions, such as: the perpetuation of the militarization of domestic security efforts by way of the newly-created National Guard and the concerning new protagonism of the military in public life; the toughening of migration policies; regressive reforms that have amplified mandatory pretrial detention; and the mismanagement of designation processes for the Supreme Court and the National Human Rights Commission.

Beyond these contrasts, there are structural continuities that have not been reversed, which are reflected in official data. For example, according to information from the National Public Security System, 44 490 homicides were committed in 2019, the highest total in recent history. The National Search Commission (for the forcibly disappeared) reported that, since the end of 2006 to the present, 61 637 disappeared persons were registered, including more than 5 000 newly registered disappearances in 2019 alone.

The present issue of *Focus* explores these contrasts, concentrating on the actions of the new administration in the face of grave human rights violations and seeking to prioritize data and analysis over the partisan discourse that predominates in the current, polarized national public conversation. 

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Photo: Center Prodh

The continued search for the forcibly disappeared in Mexico

On November 17, 2017, the General Law on the Enforced Disappearance of Persons, Disappearance Committed by Individuals, and the National System to Search for Missing Persons entered into force as a result of countless actions demanding truth and justice for the families of forcibly disappeared persons.

THIS LAW MANDATED THE CREATION of the National Search System (SNBP, by its Spanish acronym) and a new national registry of disappeared and missing persons¹, as well as a National Forensic Database, a National Registry of Graves, the Amber Alert, and the Unified Search Protocol, among other provisions. The law also ordered the creation of the National Search Commission (CNSB) and a National Search Plan. It also ordered the creation of a National Citizen Council, composed of special-

ists, victims' family members, and human rights defenders, with the objective of advising the SNBP.

Moreover, the law ordered the SNBP to coordinate with the Special Prosecutor for Enforced Disappearance within the National Attorney General's Office. Each of Mexico's 32 states must also create a parallel search system at the state level, with a local law on disappearances, a local search commission, a local registry, a local forensics system, a local citizen council, and a local specialized prosecutor.

During the previous federal presidential administration, this law was not robustly implemented. On March 7, 2018, the first head of the CNB was appointed, but it wasn't until June 21, 2018 that the Ministry of the Interior officially published where the CNB's operations would be housed.

On January 17, 2019, under the new federal presidential administration, the CNB reported that 40,180 persons remained disappeared, and identified various deficiencies in the existing registry. The head of the CNB explained that the agency had more than 50 000 profiles belonging to family members of disappeared persons, as well as skeletal remains and evidence, which he reported as progress for the consolidation of the National Forensic Database. That same day, this government official left the CNB.

On February 9, 2019, Karla Quintana Osuna was appointed as the new head of the CNB. Many civil society organizations and collectives applauded the selection, recognizing her human rights experience.

On March 24, 2019, the SNBP was re-installed in the presence of the President. By then, 13 local search commissions existed, while 19 states had not yet made legislative advances in the creation of a local commission. The budget assigned to the SNBP was 400 million Mexican pesos.

On that occasion, officials also reported that the government had inherited a context of 40 000 forcibly disappeared persons, 26 000 bodies, and tens of thousands of unidentified skeletal remains, as well as 1300 clandestine graves.

On May 24, 2019, after the first 100 days of Commissioner Quintana's term, the government announced the creation of regional search plans, one of the obligations ordered by the General Law. The first of these plans would be focused on the northeast region, namely the states of Tamaulipas, Nuevo León, Coahuila, and Durango.

During these first 100 days, the Commissioner received 481 reports of disappeared persons, of which 15 were located. From December 1, 2018, until May 13, 2019, the CNB identified more than 200 graves with 337 bodies, and an unidentified number of human remains. Commissioner Quintana also reported advances in the creation of the Unified Search Protocol, which would be reviewed by the families of disappeared persons before being sent to the SNBP.

By then, 20 local search commissions had been created and 9 were about to be created. In addition to these advances, the government announced the implementation of the First National Forensic Diagnostic with the objective of better understanding the state of the country's forensic agencies.

On June 24, 2019, three months after the SNBP was relaunched, the system was evaluated for the first time. The evaluation brought with it the announcement of the installation of 5 regional forensic institutes in the states of Coahuila (to serve Coahuila, Chihuahua, Durango, and San Luis Potosí); Nuevo León (to serve Nuevo León and Tamaulipas); Sonora (to serve Sonora, Baja California, Baja California Sur, and Sinaloa); Veracruz (to serve Veracruz, Puebla, Oaxaca, and Chiapas), and Mexico City (to serve Mexico City, Morelos, and Guerrero), with an investment of 230 million Mexican pesos. The construction of 15 forensic cemeteries was also announced, to be built in Veracruz, Sinaloa, Jalisco, Guerrero, Michoacán, Baja California, Colima, Nayarit, and Tamaulipas.

The Commissioner informed at that point that 24 local search commissions were in operation and that 18 of them already had commissioners. She also informed that 2 states were about to create their own commissions. Moreover, she announced that since December 1, 2018, they had learned of the existence of 426 graves, in which 551 bodies had been found.

During this same event, Santiago Corcuera Cabezut, a representative of the National Citizen Council, reiterated that both the previous administration and the current one had said that they would accept the jurisdiction of the United Nations Committee on Enforced Disappearances (CED) to analyze individual cases of disappearances in Mexico.

On August 30, 2019, the International Day of the Victims of Enforced Disappearances, the CNB reported that from December 1, 2018, until August 14, 2019, 552 graves and 671 bodies had been found. Of these 671 bodies, 200 had been identified and 116 bodies had been turned over to their families. Additionally, the Commissioner informed that from 2006 to date, 3 124 clandestine graves and 4 874 human bodies had been registered.

On that date, the government also informed that Sonora, Baja California Sur, Yucatán, Quintana

Roo, Guanajuato, Aguascalientes, and Chiapas were the only states that had not yet created their local search commissions. With regards to the National Forensic Diagnostic, officials had already visited the majority of the more than 250 forensic installations in Mexico.

That same day, the Ministry of the Interior's Undersecretary for Human Rights, Alejandro Encinas, informed that the President had instructed the government to "accept the jurisdiction of the United Nations Committee on Enforced Disappearances (CED) to receive and examine individual complaints" as of August 30th. The Undersecretary also indicated that a proposal to create an Extraordinary Forensic Mechanism would be presented as soon as possible. He closed by announcing the appointment of more than 200 new members of the Search Unit of the Ministry of Security and Citizen Protection.

Finally, on December 7, 2019, the CNB launched a platform to report on disappeared and missing persons² that allows any person to report a disappearance in order to activate coordinated mechanisms to search for missing persons while they are alive.

By December of 2019, 25 of the 32 states of Mexico had formed their own local search commissions, though we lack data on how many of these commissions have a citizen council, a commissioner, and/or a local registry of disappeared persons.

To date, the government has yet to create the National Registry, National Forensic Database, National Registry of Deceased, Unidentified and Unclaimed Persons, a National Registry of Graves, the Unified Search Protocol, and a National Search Plan.

Independent of the obligations detailed in the General Law, on May 9, 2019, the families of disappeared persons – especially the National Movement for our Disappeared – urged the government to create an Extraordinary Mechanism for Forensic Identification (MEIF, by its Spanish acronym). In mid-March of 2020, the government announced its creation, which could open the door for thousands of families to receive some kind of peace.

The MEIF may be the most relevant innovation in this area, since it would include teams of inter-

disciplinary experts, comprised according to the highest international standards, and exclusively dedicated to identifying human remains in order to reduce the forensic backlog that the country's morgues face.

As this account shows, the foundations have been laid for what authorities must do to revert the disappearance crisis. Nevertheless, as parallel experiences such as that of the Executive Commission for Attention to Victims (CEAV) have demonstrated, these processes take time and have uncertain results. In the face of such an enormous accumulation of uninvestigated disappearances, the families, collectives, and organizations cannot focus all of their efforts on the construction of governmental institutions. This is why families' initiatives to address the lack of search efforts on the ground in the regions most afflicted by the disappearance crisis are particularly important – initiatives such as those promoted by the María Herrera Collective in Poza Rica, Veracruz, and the National Network of Contact Points through National Search Brigades, as well as initiatives driven by collectives of recent formation in regions where disappearances continue to occur without any governmental actions, such as in Guanajuato.

The families, collectives, and organizations will not stop mobilizing and demanding action, knowing that this is the only way to keep their family members from being forgotten. Those responsible for this subject within the government must recognize these efforts as a legitimate exercise from which they can identify valuable experiences and strategies. This is particularly true considering that, despite some progress in the area, denial of the disappearance crisis persists within some government sectors. This is demonstrated by the resistance of a sector of the federal government to accepting the jurisdiction of the United Nations Committee on Enforced Disappearances (CED), in spite of the presidential order.

In conclusion, in this context of change and continuities, the wisdom of the families leads the way: they know that their struggle for their loved ones will continue, as it has, no matter what transitions, advances, or setbacks occur in government institutions. 

2. See: <https://cnbreportadesaparecidos.segob.gob.mx/Pages/InicioReporte.aspx>



Ayotzinapa: Maintaining Hope

On December 3, 2018, President Andrés Manuel López Obrador, in his first official act of government at the National Palace, with the families of the disappeared students from Ayotzinapa as witnesses, signed the “Decree ordering the establishment of effective material, legal, and human conditions to strengthen the human rights of the families of the victims of the Ayotzinapa case”¹. The Decree orders the creation of the Presidential Commission for Truth and Justice in the Ayotzinapa Case (Presidential Commission).

THIS COMMISSION IS A POLITICAL coordination mechanism aimed at carrying out an instruction given to the federal government: that all government departments and entities implement the necessary mechanisms to channel and apply the material, legal, and human resources needed to strengthen the exercise of the right to truth of the families of the victims of the Ayotzinapa case.

The Presidential Commission² is composed of the heads of the ministries of the Interior, Foreign Affairs, and Finance, as well as a committee of the victims and the organizations that represent them,

including Center Prodh. It is presided by the Ministry of the Interior’s Undersecretary for Human Rights. The fact that the families are part of the Presidential Commission entails a new model of participation for the victims that is intended to generate a new information scheme and substantially change their relationship with the government.

The Commission was installed in January of 2019 and has been functioning as a search mechanism for 15 months³. It aims to overcome existing obstacles to accessing all of the information that the government may have on the case, as well as to

1. OFFICIAL JOURNAL OF THE FEDERATION. December 4, 2018. <http://bit.ly/38XV5rU>

2. Government of Mexico. Presidential Commission for Truth and Justice in the Ayotzinapa Case. <http://bit.ly/2S8N5j3>

3. Presidential Commission for Truth and Justice in the Ayotzinapa Case. Report from September 26, 2019. <http://bit.ly/2rU8ocA>. See also: NOTIMEX. AMLO Press Conference, September 26, 2019. <http://bit.ly/2tAuuu>

generate new cooperation frameworks with people who may have information, and even to produce a model of witness cooperation, seeking to break the pacts of impunity constructed around the criminal investigation of the case.

The Decree also orders the strengthening of international supervision and technical assistance in the case. In March of 2019, an agreement was reached with the Inter-American Commission on Human Rights (IACHR) to continue supervising the case by way of a Reinforced Special Follow-up Mechanism for the Ayotzinapa Case that includes a team on the ground, with the support of experts who had been part of the Interdisciplinary Group of Independent Experts (GIEI, by its Spanish acronym)⁴. Nonetheless, it was not until August of 2019 that two of these experts initiated their work along with the Special Prosecutor for the case. Moreover, in April of 2019, the Ministry of Foreign Affairs signed a Cooperation Agreement with the United Nations (UN) High Commissioner of Human Rights' Office in Mexico with regards to the Ayotzinapa case.⁵

A third pillar that is also crucial at this stage has been the creation of a Special Investigation and Litigation Unit for the Ayotzinapa case within the Federal Attorney General's Office. This Unit was created in June of 2019, by way of an agreement published in the Official Journal of the Federation⁶. This is the first investigation unit specifically created for a case within the framework of the recently reformed, newly autonomous Federal Attorney General's Office (FGR, by its Spanish acronym). Omar Gómez Trejo was appointed as head of the Special Unit; he had also served as technical secretary for the GIEI.

With this whole structure working together—the Presidential Commission, the Special Prosecutor

for the case, as well as international supervision—steps toward the truth have begun to appear.

For example, the Presidential Commission has held meetings with former government officials from Guerrero and the Ministry of Security and Citizen Protection, as well as with high-ranking officers of the Ministry of Defense, with the objective of having entities or individuals that may have information about the case collaborate with the Special Prosecutor. On July 25, 2019, after the Presidential Commission's meeting with the Defense Minister and the highest officials of the Army, where the families challenged them regarding how their lack of transparency had contributed to questions about their intervention in the facts of the case, the Presidential Commission entered the 27th Infantry Battalion in Iguala, Guerrero, to inspect it in the presence of representatives from the UN High Commissioner for Human Rights (UNHCHR). The mothers and fathers of the Ayotzinapa students expressed that, had such an inspection been conducted soon after the facts, it could have led to greater clarity and avoided wasted efforts. The parents demanded a new paradigm of cooperation from the Army to help solve the case.

With regard to the search for the students, since the launch of the Presidential Commission, in conjunction with the new Special Prosecutor, multiple search operatives have been conducted in more than five municipalities in the north of Iguala, with participation by the families' representatives and their experts.

Simultaneously, important steps have been taken in prosecuting the irregularities of the original investigation of the case. In July of 2019, it was disclosed that, as a result of a constitutional challenge (*amparo*) won by the families of Ayotzinapa in federal court, the internal oversight body of the Federal Attorney General's Office issued a resolution in which, amending its previous determination, it concluded that the public officials who intervened in the investigation of the case committed grave violations that constitute criminal offences and affected the families' right to truth. The precedent, which recognizes the victims' right to be a part of the proceedings regarding the irregularities in the investigations, enables the new Special Prosecutor to analyze the human rights violations

4. IACHR. "IACHR presents report and 2019 Work Plan and installs team for Ayotzinapa Case". March 14, 2019. <http://bit.ly/2Z7yhld>.

5. UNHCHR. "Remarks by Michelle Bachelet, United Nations High Commissioner for Human Rights, during signing ceremony of agreement with the Mexican Ministry of Foreign Affairs (SRE, by its Spanish acronym) to provide guidance and technical assistance in the Ayotzinapa case". April 8, 2019. <http://bit.ly/2QoZou6>. The signed agreement is available at: <http://bit.ly/2S8TPfN>

6. OFFICIAL JOURNAL OF THE FEDERATION. Agreement A/010/19 by which a Special Investigation and Litigation Unit for the Ayotzinapa case is created. June 26, 2019. <http://bit.ly/35EEzel>

and irregularities committed in the investigation into the whereabouts of the disappeared students.⁷

Nevertheless, the families of the Ayotzinapa students have also faced setbacks. An example is the release of a number of individuals accused of participating in the case, thus confirming the deficiencies of the previous federal administration's investigation. These releases are a consequence of the irregularities and the grave violations committed with impunity by the former Federal Attorney General's Office (PGR), and show that the current Federal Attorney General's Office (FGR) needs to demonstrate greater resolve to correct the deficiencies of said accusations. If it does not, more individuals could be released.

In the context of the fifth anniversary of the case, the families of the students met with the President. At this meeting, they expressed: a) that not all government institutions –namely, the FGR, the Army, and the Federal Police– were collaborating at the same level with the Presidential Commission; b) a request for the President to intercede with the Attorney General to reinforce his commitment to the investigation, including the investigation of those responsible for the aforementioned irregularities; c) that the international assistance, which was being delayed, should be strengthened; and d) that the President should continue to meet with them and not abandon them⁸. The President accepted these commitments and established a calendar to meet with the families and follow up on the case.

A week later, on September 18, 2019, the families met with the Federal Attorney General, the Special Prosecutor for the case, and the President as witness. At this meeting, the families reiterated the need a) to work against the release of defendants who may have information about the whereabouts of the students; b) to prioritize new accusations against members of the security forces whose participation had already been identified; and c) to advance the investigation of those who committed human

rights violations and irregularities in the (original) investigation. The Attorney General committed to redirecting the investigation in a way that ensured its legality, and to monitoring closely all developments along with the prosecutor for the case.⁹

By March of 2020, the first actions in this respect had taken place: on March 17th, two former FGR officials and a member of the Navy were detained and accused of torturing one of the suspects in the disappearances. The next day, it was revealed that Interpol had issued a Red Notice against Tomás Zerón de Lucio, the former director of the Criminal Investigation Agency within the PGR, accused of torture, enforced disappearance, and offences against the administration of justice. The families and the organizations who represent them applaud this step, clarifying that these actions are good news not because punishment is sought as revenge, but rather because if individuals begin to be held accountable, it will be possible to break the pacts of silence and impunity that cover up the truth about what happened on September 26, 2014, and during the original investigation.

For Center Prodh, the steps taken within the Presidential Commission and the Special Investigation Unit point in a promising direction. Nonetheless, it is also clear that, more than five years after the events and a little more than a year into the Presidential Commission's operation, should the case not be solved soon, it could call into question the government's capabilities and true will to get to the bottom of what happened. Just as the families expressed, the fifth anniversary of the case was marked by sadness and the lack of concrete results in solving the case.

In over five years of the search for truth and justice, the families and their representatives have not stopped taking a wide variety of actions to advance this case, which, while no more important than so many other human rights atrocities in the country, is a paradigmatic example of the deficiencies of our justice system. During this protracted process, we are inspired by the testament of resilience of these families who fight every day for truth and justice. 

7. Regarding the new resolution, see, for example: *Noticieros Televisa*. Tomás Zerón committed irregularities in the case of the 43 *normalistas*. July 10, 2019. <http://bit.ly/38VRLxG>

8. The position of the families with regard to the meeting with the President is available at: <http://bit.ly/2sH8VhU>. See also: *CNN en Español*. Carmen Aristegui. "Mother of disappeared Ayotzinapa student: AMLO gave us a lot of hope". September 13, 2019. <https://cnn.it/34FT9kw>

9. Regarding the meeting with the Attorney General, see: *CNN en Español*. Carmen Aristegui. "New investigation in the Iguala case will look into irregularities in the previous investigation". September 20, 2019. <https://cnn.it/2ECLgSC>



Photo: Cuartoscuro

Extrajudicial killings and homicides: prevention, punishment and transparency

The fact that violence is one of the Mexican population's principal concerns¹ is understandable in light of prevailing homicide rates. The previous federal administration registered the highest homicide rates in recent history, which persist under the new administration.

THIS CONTEXT INCLUDES THE HIGH-PROFILE violent events observed during the first 12 months of the new federal government, some of which were carried out by private individuals –such as the murder of 13 state police in Aguililla, Michoacán; the state of siege in Culiacán, Sinaloa, immediately following the detention of Ovidio Guzmán (son of Joaquín "El Chapo" Guzmán); and the massacres in Coatzacoalcos and Minatitlán, in Veracruz– and others of which involved security forces. Some of these latter cases include the killing of two young people by the military in El Aserradero, Cuauhtpec, Hidalgo, for allegedly refusing to stop their vehicle at a security checkpoint; the killing of 5 men and 3

women by state police in Nuevo Laredo, Tamaulipas, where the scene of the crime was altered in order to criminalize the victims; the events in Múzquiz, Coahuila, where at least one state police officer and 8 civilians were killed in an alleged confrontation; the events in Villa Unión, Coahuila, that resulted in the killing of 18 civilians and 4 state police; and the case in Tepochica, Guerrero, where 14 civilians and

1. "Perception of Public Security" report published by the Federal Government on October 14, 2019, based on the National Survey of Victimization and Perception of Public Security (ENVIPE, by its Spanish acronym), National Institute of Statistics and Geography (INEGI).

one soldier were killed in what was officially called “a confrontation”.

Regarding this last episode, the government officially reported that it was the product of an attack by suspected criminals against an Army patrol that was performing surveillance. The civilians allegedly shot at an Army officer, who was injured and then killed the 14 alleged assailants. This could very well be the type of false narrative used by the previous administration in cases of extrajudicial killings (those of Tanhuato, Apatzingán, Calera, or Tlatlaya, for example), which legitimately raises the question: how much has the use of lethal force actually changed?

The National Plan for Peace and Security (which included the creation of the National Guard) was presented as a turning point in terms of citizen security, yet the new government opted for a militarized system to handle public security, including the “War on Drugs”; in essence, it continues to try to tackle the problem of violence by employing a tool that generates it.

As Center Prodh pointed out at the time, the creation of the National Guard perpetuated the militarization of domestic security and went against the warnings of a wide range of experts with a very diverse set of perspectives, who expressed that it would reproduce the failed security strategy that prevailed during the last decade, with its resulting toll of human rights violations. The same is true of the secondary laws that regulate this institution, which today are being challenged before the Mexican Supreme Court. With regards to the National Law on the Use of Force, the United Nations High Commissioner for Human Rights’ Office in Mexico warned that the use of lethal force is not properly regulated.

Cases such as the ones referred to raise questions as to whether the actions of the armed forces and all the security forces comply with internationally accepted principles regulating the use of force, especially the principles of *absolute necessity* and *proportionality*. The first, understood as:

[T]he use of force being the last alternative to protect the life and integrity of persons [...] having exhausted other means to dissuade the conduct of the aggressor.³

And the second:

[T]hat the level of force used be in accordance with the level of resistance offered by the aggressor and the level of risk exhibited [...].⁴

The question also arises as to whether the actions of the security forces are really carried out in a logic of prevention, which would imply that the operatives be planned and thus that the use of lethal force be minimized. A preventive strategy, in principle, would avoid generating unnecessary confrontations with groups of people who are in conflict with the law when their presence in certain territories is known. Therefore, it is indispensable to continue monitoring the behavior of the use of lethal force.

The Inter-American Court of Human Rights’ judgment in the case of the women of Atenco offers a useful path to this end, by ordering the creation of an External Independent Observatory to monitor certain security forces’ use of force. For measures like this to work, however, transparency is also critical: civil society organizations and specialists must be able to analyze institutional data, so that external observers –and not just institutions– can determine whether or not the lethality rate has dropped.

It is also critical that the cases of the recent past lead to the punishment of those responsible. For instance, the military officers involved in the extrajudicial killings in Tlatlaya have not been brought to justice.

In view of the continued homicides and executions, very possibly exacerbated by the government’s use of militarization and the central role of the Army in public life, improving prevention, punishment, and transparency continues to be a great challenge. Recent history shows that violent deaths will not be reduced without accountability mechanisms. 

2. FREGOSO, Berenice. “AMLO laments deaths in confrontation in Iguala, Guerrero,” in *El Universal*, October 16, 2019, available at: <http://bit.ly/2sQb25z>.

3. National Law on the Use of Force, art. 4.

4. *Ibid.*

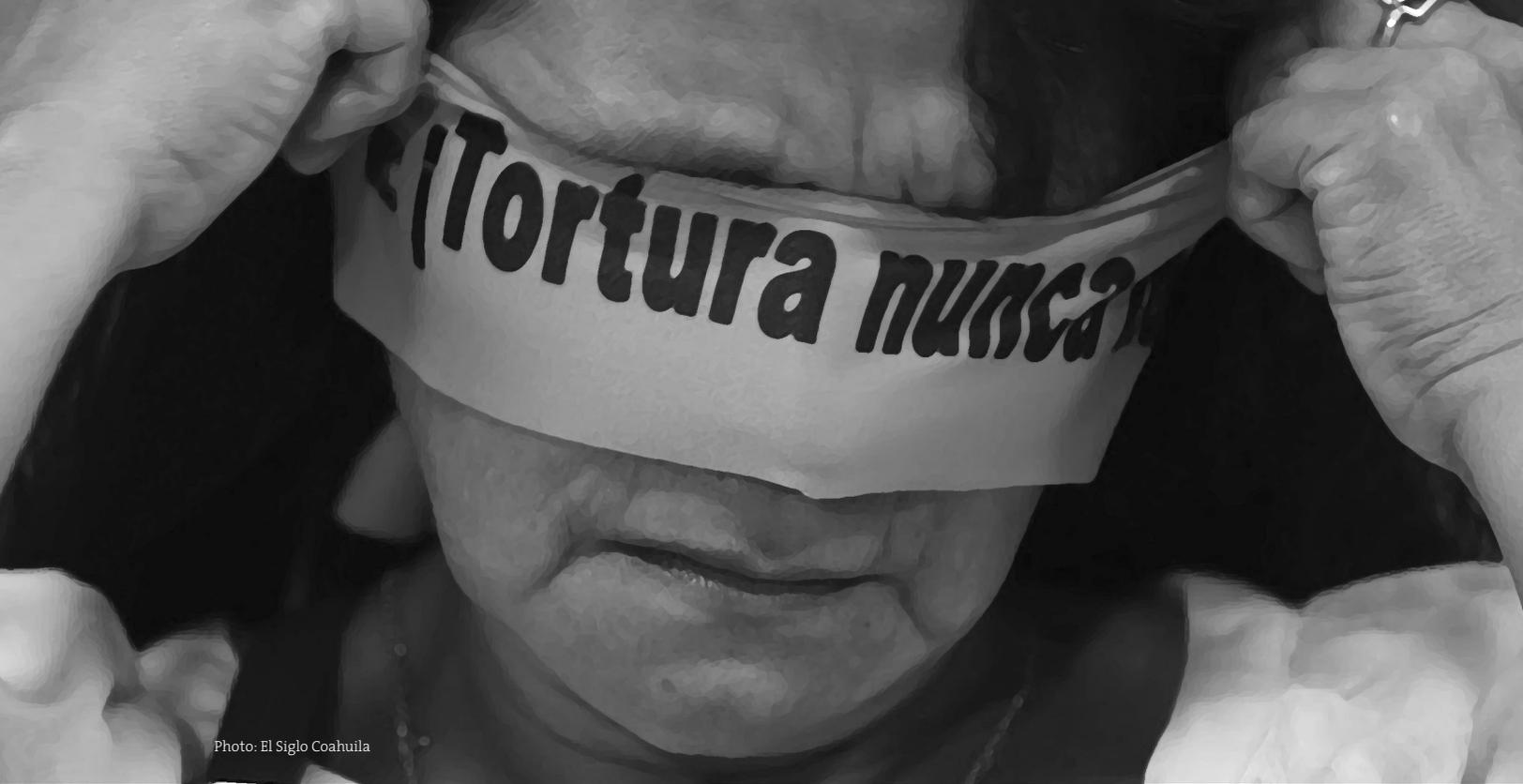


Photo: El Siglo Coahuila

Progress and Challenges for the Implementation of the General Law against Torture

The publication in June of 2017 of the General Law to Prevent, Investigate and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was a key step forward in the fight against torture in our country, as it standardized the regulatory framework in this area at the federal and state levels in accordance with international standards.

THIS LAW PROVIDES FOR THE CRIMINALIZATION of torture, as well as the creation of Special Prosecutors' Offices to investigate this crime at the federal level and in each state. It establishes the obligation and procedure for excluding evidence obtained under torture from criminal proceedings; provides for a national registry of cases of torture; strengthens the structure and mandate of the National Mechanism for the Prevention of Torture (MNPT, by its Spanish acronym); and establishes obligations regarding attention to victims. It also provides for the creation of a National Program for the Prevention and Punishment of Torture to coor-

dinate targeted actions among the different levels and institutions of government.

Nevertheless, the enactment of a law is not enough to change reality. In the case of the General Law against Torture, the challenges to its enforcement are even greater since it implies a change as fundamental as stopping the use of torture as a method of fabricating evidence and starting to punish it as a crime. Indeed, while the last two years have seen several advances in the implementation of the law, there are still major pending matters and gaps that, to date, translate into persistent impunity.

To appreciate the scope of the challenge, one need only look at the digital platform www.sin-tortura.org, launched in November of 2019 by a group of civil society organizations¹ with the support of the United Nations (UN) High Commissioner for Human Rights' Office in Mexico. This platform shows – based on 10 areas of indicators at the federal level and in the 32 Mexican states – the major pending issues in the implementation of the General Law and the fight against torture, allowing for the comparison of information from 2014 to 2018. Among the findings highlighted by the organizations are the following:

- In only two state cases did the authorities report having filed charges for torture before any judicial authority in 2018, despite the opening of more than 3,600 criminal investigations of torture in state prosecutors' offices.
- No state reported convictions for torture in 2018.
- During the first months of 2019, only the federal government and 10 states reported having a Special Prosecutor's Office to investigate torture as established in the General Law; 10 other states reported having an investigation unit. One third of the states reported having neither.
- During the first months of 2019, only three states reported having registries of torture cases that complied with the General Law (which is also a basic requirement for supplying information to the national registry of this crime).

Undoubtedly, one of the pending priorities is to put an end to the almost absolute impunity for torture: out of a total of almost 24,000 investigations initiated for torture from 2014 to 2018, the judicial branches reported only 41 judgments (33 federal and 8 state), including both convictions and acquittals. Thus, profound transformations are required in the way that torture is investigated.

1. Centro de Justicia para la Paz y el Desarrollo (CEPAD), Centro Prodh, Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), Documenta: Análisis y Acción para la Justicia Social and Fundar: Centro de Análisis e Investigación.

In particular, there is an urgent need for the country's prosecutors' offices to overcome the improper use of alleged "expert opinions" to document physical and psychological impacts of torture. Various national and international human rights bodies have pointed out that the "expert opinions" issued by State agents regarding persons who denounce torture do not conform to the guidelines of the Istanbul Protocol (the international standard in this area). In May of 2019, the UN Committee Against Torture noted:

[T]he Committee is concerned about information indicating serious deficiencies in the implementation of the medical-psychological opinion used for the physical and psychological evaluation of the alleged victims.²

As well as:

[S]ignificant delays in conducting the examinations and their lack of exhaustiveness, which contributes to generating doubts about the impartiality of the professionals who implement them.³

Regardless of the duty to guarantee victims' access to impartial examinations to document possible impacts of torture, investigating authorities are also required by the General Law to carry out all the necessary steps to clarify the complaint of torture –that is, under the current legal framework, they should no longer condition the progress of investigations on obtaining "positive" results from an "expert examination" of the torture victim. Today, most authorities are far from complying with this obligation.

In this context, in 2019, the federal government took an important step by coordinating a participatory process to design the National Program to Prevent and Punish Torture with input from different government institutions, international agencies, and civil society organizations. Through a series of working groups, a program was drawn

2. CAT/C/MEX/CO/7, para. 27.

3. *Ibid.*

up that reflects both the major outstanding challenges to the eradication of torture in Mexico, as well as the critical path to promoting the full implementation of the General Law and reducing acts of torture and other ill-treatment. The program is in the final design phase and is expected to be published soon.

Additionally, government institutions belonging to the Follow-up Mechanism for Cases of Sexual Torture Committed against Women –coordinated by the National Commission for the Prevention and Eradication of Violence against Women (Conavim, by its Spanish acronym)– have participated in various working meetings with the survivors of sexual torture in Atenco and their representatives, in order to design the route for strengthening said Follow-up Mechanism, in compliance with the Inter-

American Court of Human Rights' judgment in the case delivered at the end of 2018.

The full implementation of the National Program and the effective strengthening of the Mechanism would represent two highly relevant steps towards the enforcement of the General Law and, more importantly, towards the eradication of torture in the country.

Meanwhile, the daily reality experienced by victims of torture and their families continues to be that of a permanent fight for freedom, access to justice, and reparation, in a context in which they face countless obstacles. At Center Prodh, it is our privilege to accompany many survivors and families who, with courage and dignity, have undertaken this difficult journey. We will continue to seek truth and justice for each of them. 🦋



Photo: Tatiana Maillard | Cultura Colectiva



Photo: Center Prodh

Mónica Esparza: a liberation that sheds a light of hope

In March of 2020, federal judge Yuri Alí Ronquillo Vélez restored Mónica Esparza's freedom by acquitting her. Mónica had been imprisoned for seven years, after having been arbitrarily detained in Torreón, Coahuila, by the Municipal Police. Along with her brother, she was tortured and placed on trial for crimes she did not commit, with no evidence other than that invented during violations of her human rights.

THE CASE OF MÓNICA ESPARZA IS REPRESENTATIVE of the persistent practice of torture in Mexico, which, when it victimizes women, with alarming frequency takes the form of sexual torture. As we documented in the report "Women with their heads held high", state institutions are not only indolent in the face of gender-based violence, but on countless occasions, they perpetrate it.

Mónica's case shows how giving prosecutors' offices more powers, when there are not enough controls over their actions, not only fails to improve access to justice and security, but also leads to unjust prosecutions based on torture and cruel treatment.

The judge resolved Mónica's case in accordance with constitutional and treaty obligations that pro-

tect human rights. The ruling demonstrates that excluding evidence derived from serious human rights violations can help to reverse some of the most egregious practices of violence and discrimination that authorities employ against women.

Thus, in a context such as Mexico's, Mónica's release shows why it is essential not to allow exceptions to the rule of exclusion of illicit evidence, such as those proposed in the draft criminal reform bill leaked at the beginning of the year.

Today, Mónica Esparza is free; hers is a story of resilience and strength. But there are still many women in prison who continue to fight to regain their freedom and to overcome the violations committed against them by security forces and police in a context of militarization of public security. 🦋



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