

W O M E N STANDING TALL

A REPORT ON SEXUAL TORTURE
IN MEXICO AND THE STATE'S RESPONSE

EXECUTIVE SUMMARY



CENTRO PRODH



This project is funded
by the European Union



cooperación
alemana
DEUTSCHE ZUSAMMENARBEIT

giz Deutsche Gesellschaft
für Internationale
Zusammenarbeit (GIZ) GmbH

WOMEN STANDING TALL

A REPORT ON SEXUAL TORTURE IN
MEXICO AND THE STATE'S RESPONSE

EXECUTIVE SUMMARY



This project is funded by
the European Union



This publication has been prepared with the assistance of the European Union. The material contained herein is the sole responsibility of Center Prodh and can in no way be taken to reflect the views of the European Union.

BACKGROUND TO THE REPORT

Security context

- Militarization of public security
- Worrying levels of violence
- Alarming levels of violence
- Vulnerability of victims related to socio-economic status, place of residence, gender, cultural background, sexual diversity, and age.
- Increasing violence against women.
- Widespread torture in Mexico predominantly from the time of detention to the moment the detainees are taken before a judicial authority.
- Impunity in cases of torture

Torture and impunity

- 10 462 allegations of torture received by this center in 2014.
- Only 17 consigned reports out of 8 335 initiated investigations since 2015 by the Specialized Unit for the Investigation of Torture Crime.
- Only 15 federal convictions for torture between 2006 and 2015.

Sexual violence against detained women

- From 2006 to 2016, 72% of the recommendations issued by the CNDH regarding violation of personal integrity in women's cases have involved sexual offenses.
- In 2013, the CIDE revealed that 27.8% of women who were victims of physical violence stated to have been victims of sexual abuse, compared to 6.2% of men.
- According to Amnesty International, out of 100 documented cases of female prisoners, 72 claimed to have suffered sexual violence at the time of detention or within the next few hours and 33 alleged instances of rape.
- The INEGI's National Survey of Population Deprived of Liberty (ENPOL) shows that 12.7% of women and 4.0% of men were rape victims.
- The World Justice Project determined that 8 out of 10 female detainees between 2009 and 2016 were victims of torture before being brought before a judge. In states such as Coahuila and Tabasco, more than 30% of the female detainees claimed to have suffered sexual torture.
- The number of women incarcerated in Federal Social Rehabilitation Centers increased from 63 in 2007 to 2,731 in 2017.

ABOUT THE PROJECT

What is the purpose of this report?

- To contribute to the fight for the liberation of women who have been unjustly prosecuted and survived sexual torture.
- To generate inputs for the defense and the judicial advocacy in the documented cases.
- To promote the awareness of sexual torture as a serious offense of human rights.
- To fully document and analyze the patterns of arbitrary detention and sexual torture of women.
- To disclose the impacts of these practices on penal proceedings.
- To assess the state's response in meeting its obligations.
- To bring to light the experiences of a group of women who continue to fight for justice despite the most hostile circumstances.

Sexual torture categories

- Acts of rape or the threat of rape.
- Acts of sexual abuse.
- Acts of violence in sexualized areas of the body.
- Sexual harassment.
- Any act that affects sexual freedom or safety.

How do we define sexual torture?

Acts of sexual violence:

- They are intentional.
- Cause severe distress due to a coercive environment.
- They vary in intensity depending on the endogenous and exogenous factors of torture.
- Their purpose is inherent: to humiliate, intimidate and punish, among others.

Rights violated by sexual torture

- Right to life.
- Right not to be subjected to torture or cruel, inhuman, or degrading treatment or punishment.
- Right to equal protection under humanitarian law in time of international or internal armed conflict.
- Right to liberty and security of persons.
- Right to equal protection of the law.
- Rights to sexual freedom, autonomy, integrity, and security.



29 cases
thoroughly documented
for this report



The detentions occurred
between 2006 and 2015



How do we handle each case?

- **In-depth interviews** on arbitrary detention and torture, including sexual torture.
- **Assessment** of prosecution and acquittal evidence from the criminal record.
- **Ongoing** criminal advice.
- **Compilation** of file information.



12 states where detentions occurred

Baja California, Mexico City, Coahuila, State of Mexico, Guerrero, Michoacán, Nuevo León, Quintana Roo, San Luis Potosí, Sonora, Tamaulipas and Veracruz.

Authorities identified as responsible for sexual torture



Offenses charged against women

- Various modalities of organized crime
- Possession, carrying, or stockpiling of weapons used exclusively by the Mexican Army, Navy, and Air Force
- Against health
- Kidnapping
- Homicide
- Theft
- Extortion

PROBATIVE STANDARD FOR VERIFYING AN ALLEGATION OF SEXUAL TORTURE

DIMENSION	CONSEQUENCE	BURDEN OF PROOF	WHERE	ACCREDITATION STANDARD
Serious violation of human rights	Exclusion of illicit evidence	It is up to the Public Prosecutor's Office to prove the legality of the evidence and, unless this is the case, the judge must exclude it	Within the criminal proceedings in which the defendant alleged torture	The verification of the alleged offense under a parameter of reasonableness to exclude evidence derived directly or indirectly from torture
Offence	Investigation and sanction of those responsible for torture	It is up to the Public Prosecutor's Office to demonstrate the offense and criminal liability through the exercise of criminal action before a judge	Within a research portfolio	A comprehensive verification for convictions against those responsible

FINDINGS AND RECOMMENDATIONS

General information

- In a context of widespread torture, sexual torture against women is all too often perpetrated.
- Rape is a tool used against women, both as direct action and as a threat.
- It is frequently committed collectively, by two or more agents regardless of whether they all perpetrate intercourse, but with evident participation in the victim's subjugation.
- This is committed by both the civil and the military security forces.
- Within the State apparatus, institutional schemes induce or facilitate the occurrence of these acts.

Physical, psychological and household impacts on the survivors

There are physical impacts on survivors ranging from organ or body parts deformation and matrix detachment to permanent pain; psychological impacts, such as fear or discomfort in the presence of men and family members, related to disturbances in their relationships with men as well as economic or personal development impacts on their dependents.

FINDINGS

On arbitrary arrest and prolonged and unjustified detention

- In no case were the survivors informed of the reasons for their arrest.
- In 27 of 29 cases, the figure of *in flagrante delicto* was used to justify detention without evidence.
- In all 29 cases, no one was immediately referred to the Public Prosecutor's Office.
 - In 14 cases, the detention was between 6 and 12 hours
 - In 15 cases, the detention was over 12 and up to 72 hours.
- In 13 cases, survivors reported that the torture occurred within official facilities.
- In 4 cases, survivors said that the torture happened within military facilities.

On sexual torture and other forms of gender discrimination

- In 27 of the 29 cases, there was rape.
 - In 16 cases, rape was committed.
 - 12 of these 16 cases were gang rape.
 - In 11 cases, threats of rape were made.
 - In 2 cases, rape was perpetrated in front of family members.
 - In the cases of pregnant women, there was also a threat to terminate their pregnancy.

- In 28 of 29 cases, women were sexually abused by touching, other similar acts, or forced nudity.
- In 7 cases, the abuse was recorded or photographed by the perpetrators.
- In 10 of the 29 cases, there were acts of violence in sexualized areas of the body through beatings or electric shocks.
- In 1 of the cases, there was genital mutilation.
- In 28 of 29 cases, two or more forms of sexual torture were present.
- In 4 cases, sexual torture also occurred within the facilities of the Public Prosecutor's Office.
- In 4 cases, the sexual torture was committed by physicians and public prosecutors of the PGR.
- Also, non-sexualized acts of gender-based violence, such as sexist insults or forced labor, were committed.
- The greatest vulnerability was among pregnant women, mothers, lesbians, women with other gender identities, etc.
- In addition to sexual torture, there were repeated beatings in different areas of the body, dry and/or wet asphyxiation, cuttings, burnings, electric shocks to other parts of the body, sensory and/or movement deprivation, forced positions, threats of forced disappearance and/or execution, simulation of execution, being forced to witness the torture and/or the execution of someone else, among others.

On the failure to certify the state of physical integrity and provide specialized care

- In the only 6 cases in which the PGR physicians certified injuries, they rated them as "mild" despite the women's actual condition.
- Both in these cases and those where injuries were omitted, the medical certification of committal to the confinement facility listed injuries overlooked by the PGR's medical examiners.

- In no case were the victims provided with prompt and specialized medical and psychological assistance.
- In no case in which sexual torture was reported, was there any guarantee that the statement and/or complaint followed the conditions of due care and privacy.

On the obligation to verify the testimony of sexual torture

- In all cases in which there were allegations of torture, arbitrary arrest, and prolonged and unjustified detention, the burden of proof was placed on the victims.
- Neither Public Prosecutors nor judges took any action to verify the allegations actively.

On the concealment and/or involvement of the PGR

- In the 29 cases, there was concealment or direct participation of agents of the Public Ministry of the PGR, mainly from SEIDO, in arbitrary arrest, prolonged and unjustified detention, and sexual torture.
- No case approves a minimum of Ministerial control over the arrest's legality and the immediate referral to the Public Prosecutor's Office.
- In the 29 cases, the Public Prosecutor's Office ignored clear indications of these serious human rights violations.
- There was a lack of immediate referral to the Public Prosecutor's Office, a fact that was ignored in 21 cases.
- In several cases, the intimidation was also addressed to family members.
- In 6 cases, the women recounted the real circumstances of the arrest to the Public Prosecutor's Office, but no action was taken.
- In 11 cases, the PGR promoted the exhibition of the images, mainly in those allegedly linked to organized crime, before the indictment.

.....

On the illicit evidence supporting criminal proceedings

- In 21 cases, the women signed a self-incriminating statement as a result of sexual torture.
- Only 3 women were able to exercise their right not to testify.
- The remaining 5 women were unable to report the actual circumstances of the detention.
- In 21 cases, the report and the referral to the Public Prosecutor's Office showed prolonged and unjustified detention; therefore, these documents should not be granted any validity.
- Some women were taken to a military headquarters before being placed at the disposal of Ministerial authority.
- In one case, the Ministerial authority illegally obtained the declaration of several people there.
- In 24 of 29 cases, the apprehenders elicited so-called "spontaneous confessions" from the women and several other individuals.
- In 23 cases, there were also charges brought against women by co-defendants, most of which were obtained under torture and not ratified by the Public Prosecutor's Office.
- In many cases, women's recognition as probable perpetrators did not guarantee the right to an adequate defense, or there were indications of likely inducement.
- In no case does the introduction of material evidence - weapons used exclusively by the military, cartridges, narcotics, and money - have a reliable origin or chain of custody.

On Omissions of Duties by Judges

- In all cases, in the dictation of the constitutional deadline order or first or second instance rulings, a court or tribunal has validated these women's human rights violations.

- In no case did the jurisdictional authority exclude illicit evidence on the grounds of a human rights violation despite the existence of evidence to that effect.
- No judge invalidated the reports or the referrals to the Public Prosecutor's Office in which an unlawful act was implied.
- In only 3 cases did the judges rule on the illegality of collecting alleged confessions from detainees, but they gave value to the testimony of the captors.
- No jurisdictional authority determined the invalidity of evidence that was collected directly or indirectly during the period of prolonged and unjustified detention.
- No jurisdictional authority excluded the self-incriminating statements signed at ministerial headquarters even though they were not ratified, that the women claimed to have been tortured and that there was evidence to that effect.
- In all cases where preliminary statements accounted for torture, the judicial response was to overturn the burden of proof illegally or dismiss the torture allegation on other illegal grounds.
- In no case in which sexual torture was alleged, did the judges react in a specific or distinct manner, nor did they evaluate the testimony according to the Supreme Court's standards or international human rights law.
- In no case did the judges adjudicate the cases from a gender perspective.
- Several judges verbally stated that eradicating torture is merely a "fad" and that they would not verify the allegation until the Ministerial authority qualified the facts as torture.

On the failure to investigate the crime of torture

- No immediate investigation was initiated in any case, despite knowing the events.
- In cases where there is an open inquiry, these women do not have any information about the course of action undertaken.

- The perpetrators have not been held accountable in any case.

On the performance of the National Human Rights Commission and State Commissions

- In most cases, we did not find signs of a proper investigation by the autonomous public agencies
- The termination of the complaint files that were dismissed occurred because of an illegal overturn of the burden of proof on the victims and/or the authorities' reports' absolute credibility.
- Of the 14 complaints filed with the CNDH, only in 2 cases was a recommendation issued (15/2016 and 20/2017).
- Two recommendations were issued regarding the files carried out before state commissions: one by the Human Rights Commission of the State of Coahuila (6/2017) and the other by the Human Rights Commission of the State of Veracruz (16/2017).

RECOMMENDATIONS

To the Federal and Local Judiciary Council

1. To recognize and convey the recurrence of sexual torture against women in the country through internal policies and programs.
2. To provide training to justice workers in their duties to prevent and eradicate torture, particularly, sexual torture against women.
3. To initiate internal administrative proceedings against justice workers who fail to comply with their obligations concerning allegations of torture.
4. To improve the council's institutional involvement with individuals to generate an easy and effective system through which actions or omissions can be denounced.
5. To review and reinforce the federal public defense - particularly the one assigned to SEIDO- to address this issue.

To justice workers

1. To give specialized treatment to allegations of torture committed against women following the guidelines proposed by the IACHR and the SCJN.
2. To guarantee the exclusion of any evidence obtained directly or indirectly through torture or any other human rights violation, either through direct exclusion or at the request of a party, assigning the burden of proof to the Public Prosecutor's Office.
3. To comply with the obligation to verify the allegations of torture, analyzing all relevant information available and not just expert evidence.
4. To ensure that the competent ministerial authority initiates a criminal investigation into allegations or indications of torture, verifying that it is carried out and even proposing measures or guidelines to be considered, as well as submitting all the evidence considered necessary.
5. To assess the acceptable judicial practices in the report entitled *Del papel a la práctica: la aplicación de las reformas constitucionales en el sistema de justicia*.

To public and private defenders

1. To point out the illegality of any evidence obtained directly or indirectly through torture or any other human rights violation, offering the corresponding evidence from the beginning of the prosecution.
2. To file a criminal complaint upon learning of the commitment of acts of torture.
3. To avoid subscribing to proceedings in which a defense service was not provided

.....

**To the General Attorney of the Republic
and the State Prosecutors' Offices**

1. To conduct within a reasonable timeframe, the corresponding investigations and identify those responsible for the acts of torture documented in this report by identifying the hierarchical superiors' patterns and responsibilities.
2. To convey to all the institution's personnel, including the General Coordination of Expert Services, through policies and programs, the recurrence of sexual torture against women in the country.
3. To provide training to the institution members in their obligations to prevent, investigate, and punish torture and, in particular, sexual torture against women.
4. To exclude evidence that may reasonably suggest a direct or indirect connection with acts of torture or any other human rights violation.
5. To not restrict or condition the investigation of the crime of torture upon expert evidence of the victim, recalling that this violates the Istanbul Protocol and the General Law on the subject.
6. To transfer the Specialized Unit for the Investigation of the Crime of Torture to the Specialized Prosecutor's Office to investigate serious human rights violations in the transition from the PGR to the Attorney General's Office.
7. To ensure that sexual torture is made visible and prevented in the National Program to Prevent and Punish Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment.

**To the National Human Rights Commission
and the State Human Rights Commissions**

1. To make visible the recurrence of sexual torture by using this term to identify human rights violations.
2. To bring before the competent ministerial authority so that it may initiate a criminal investigation into allegations or indications of torture, ensuring that this does occur, submitting all of the evidence in the

file that may prove the criminal act, and actively contributing to the punishment of those responsible.

3. To diligently investigate, document, and issue a General Recommendation on Sexual Torture in Mexico.

**To the National Commission for the Prevention and
Eradication of Violence against Women**

1. To reactivate the working tables of the Mechanism for Monitoring Cases of Sexual Torture.
2. To monitor cases of women survivors of sexual torture in detention.
3. To develop public policies aimed at the prevention of sexual torture
4. To bring informally to the apparatus, women complainants on sexual torture in this report and Amnesty International.
5. To promote policies for effecting criminal penalties from a gender perspective, particularly for drug-related crimes and/or organized crime.

To the National Institute of Statistics and Geography

1. To modify the General Questionnaire of the National Survey of Population Deprived of Freedom (ENPOL), allowing the identification of the forms of sexual violence referred to in this report.

To the Executive Commission of Attention to Victims

1. To include in the federal registry of victims the women survivors of sexual torture mentioned in this report and their relatives.

**To the heads of the Secretariat of National Defense, the
Secretariat of the Navy and the Federal Police**

1. To order the commanders of the institution's delegations or battalions in the states, particularly those mentioned in this report, to demand that the personnel under their charge

refrain from any act of gender-based violence against women.

2. **To avoid transferring detained persons to military facilities** and respect the right of any person to be placed at the competent authority's immediate disposal.
3. **To refrain from ordering military doctors to carry out medical certifications** since they lack the power to do so and do not meet the minimum objective conditions

of independence and impartiality.

To the Union Congress

1. To avoid regressive constitutional reforms such as expanding the catalog of crimes for which informal preventive detention is provided, particularly on the possibility of reforming the Constitution so that crimes involving carrying weapons always warrant preventive detention.

Watercolor illustration by Norma Jimenez, a survivor of sexual torture in the San Salvador Atenco operation in 2006.

