

## **The Human Rights Situation in Mexico: December 2017 Update** **Daniella Burgi-Palomino**

This year will end as one of the most violent for citizens in Mexico, particularly for human rights defenders and journalists. October 2017 broke the record with the highest monthly number of homicides since 1997, at [2,371 homicides](#) in one month. The country is undergoing a crisis exacerbated by a lack of access to justice and widespread impunity for cases of grave human rights violations and everyday attacks against human rights defenders and journalists. Though the year will end with the passing of two major laws—one on enforced disappearances and the other on the prohibition of torture—many steps must still be taken before their effective implementation, and these laws alone will not reverse the impunity that accompanies cases of enforced disappearances and torture, especially those committed by the armed forces. This memo provides more details on some of these issues and concludes by providing recommendations for U.S. policymakers.

### **New Disappearance Law Signed. Full Implementation Pending & Urgent**

After passing the Mexican Senate and Chamber of Deputies earlier this year, the new *General Law on Enforced Disappearances and Disappearances Committed by Non-State Actors* was finally signed into law by the President and [published](#) on November 16, 2017. The law will go into force on December 16, 2017. The passing of the Law represents an important step forward, as it establishes a framework for the Mexican government to begin addressing the issue of enforced disappearances in the country. However, the Law is far from perfect and effective implementation is pending on several steps.

The collectives of the families of the disappeared were [supportive](#) of the creation of the National Search System and the national and local search commissions under the Law, as well as national programs which should guide the local search processes including the forensic identification and exhumation of bodies. They also backed the establishment of specialized prosecutor's offices at the local level to investigate and prosecute cases of enforced disappearances. Importantly, the Law also establishes a means for non-governmental actors to monitor its implementation via a National Citizen Council.

As it stands, the Law also has a few gaps. For example, the Law leaves unclear the coordination between the national and local search commissions and does not delineate the roles of the specialized prosecutor's offices and local government officials for the search and investigative processes, including in cases where authorities are involved in acts of disappearances. The Law also fails to establish sufficient emphasis on the investigation of chain of command responsibility for enforced disappearances—an issue that has been particularly pertinent to cases where the military was involved.

Full implementation of the Law in the coming weeks and months will be depending on various next steps, including the allocation of sufficient funding for the various mechanisms the Law establishes and a transparent process with civil society participation to select the individuals to lead the National Search Commission. As the budget proposal currently stands, funding for the investigation of disappearances and for the identification and registration of bodies at a local level is extremely limited. Moreover, forensic work that the Law contemplates will require the support of international experts.

Moving forward on these next steps is crucial, because the issue of disappearances remains an urgent issue in the country and, for those families searching for their loved ones, a dangerous one. In May 2017 for example, [Miriam Elizabeth Rodríguez Martínez](#), a committed activist and mother who had faced threats for her work of pursuing justice in the case of her daughter's disappearance and helping other families of disappeared victims in Mexico to do the same, was murdered in the state of Tamaulipas. Her case is not an isolated one; there have been more than ten known cases of family members of the disappeared that have been murdered because of their search for their disappeared loved ones since 2010. Ongoing search efforts by families continue to face bureaucratic [challenges](#) with local authorities relating to the identification and exhumation of bodies.

Moving beyond the text of the Law to address the impunity for cases of enforced disappearances will be key. According to a [report](#) by the National Human Rights Commission (CNDH), there were only two court convictions at the state level and six at the federal level for enforced disappearances as of 2015.

### **Three Years without Justice for Families of the Disappeared 43 Ayotzinapa students**

Unfortunately, the third year anniversary this past September of the disappearance of the 43 students from the Ayotzinapa rural teachers' school passed without any signs of advancements in the case. To date, the forty-three students' whereabouts remain unknown. Over 170 suspects have been arrested, but not a single individual has been prosecuted for the crime of forced disappearance. No new charges have been filed since December 2014. The role of military members has not been cleared, and no one has been sentenced for the three students killed that night. One of the injured students remains in a coma, and another is still recovering from bullet wounds to his face.

The government has continued to [stand behind](#) its "official history" theory of the disappearance of the students as recently as March 2017, despite all of the evidence provided by the Inter-American Commission on Human Rights (IACHR) backed Interdisciplinary Group of Independent Experts (GIEI) and Argentine forensic experts.

At the end of November, the IACHR appointed follow-up mechanism, which has been supporting the Mexican government on the case for the past year, recently completed its fourth official visit to Mexico. As a result of that visit and the meetings facilitated between the families, civil society organizations, the members of the mechanism, and officials, the Mexican government agreed to extend the mandate of the follow-up mechanism through the end of 2018, provide financial resources, and ensure conditions for the mechanism to work. The families and civil society organizations urged the need to extend the mechanism primarily because of the lack of progress in the case to date. The follow-up mechanism continued to [express concern](#) about the slow pace of the government in coming to conclusions. It did note some progress in utilizing LIDAR technology in the search for the students, in the investigation around telephone records and local police involvement in the incidents. The mechanism emphasized the need for the government to discard the initial version of events that all the telephones had been burned in the Cocula waste dump and to make progress in identifying and taking into custody all government officials including police officers who were involved.

### **Aggravated Attacks & Violence against Human Rights Defenders & Journalists**

Attacks against human rights defenders and journalists have continued at alarming rates throughout the end of 2017. Mexico is the third most dangerous country in the world for journalists, according to the Committee to Protect Journalists 2017 [report](#). Through the end of November 2017, a total of 10 journalists have been killed so far, with many others facing daily incidents of aggression or threats due to their work. Of the ten killed, [Cándido Ríos Vázquez](#) was the first killed in August of this year, while under the protection of the federal Mechanism to Protect Human Rights Defenders and Journalists. Equally as concerning, Silvestre de la Toba Camacho, who had served since February 2015 as president of the State Human Rights Commission in the state of Baja California Sur, was [assassinated](#) on November 20, 2017, making it the first time that a staff of the National Human Rights Commission has been assassinated since its founding in 1990.

Attacks against human rights defenders and journalists have not been limited to just this past year. In a recent [report](#), a network of over eighty civil society organizations (Red de los Derechos de Todos y Todas or Red TdT), recorded 302 cases of individuals and organizations that were subjected to human rights violations due to their work in the first four years of the administration of Enrique Peña Nieto from 2012 to 2016. The highest number of cases was recorded in the states of Chiapas, Oaxaca, Mexico City, Guerrero, Veracruz, Puebla, and the State of Mexico.

### **Lack of Progress in Investigating Spying of Defenders, Journalists, & Activists**

Following a New York Times [report](#) and [two civil society reports](#) in mid-June that unveiled that the Mexican government targeted journalists, anti-corruption activists, the Interdisciplinary Group of Independent Experts (GIEI) accompanying the Ayotzinapa investigation, a U.S. citizen, and human rights defenders with advanced

spyware only sold to governments, the Attorney General's Office (PGR) [opened up an investigation](#) into the incident. Yet, five months later, it has not provided information on the results of any inquiry. The National Human Rights Commission (CNDH) has emitted [precautionary measures](#), including that the government agencies with spyware contracts share them, but to date, they are still waiting for responses. The government agencies signaled in NGO reports of owning the spyware include the Defense Ministry or SEDENA (Secretaría de la Defensa Nacional), the Attorney General's Office or PGR, and the Intelligence Agency or CISEN (Centro de Investigación y Seguridad Nacional).

### **Dangerous Proposals to Expand the Role of the Military in Public Security Advance**

A proposed Internal Security Law that was being debated for the past few months passed the Mexican Congress on December 15<sup>th</sup> and is expected to be signed by President Enrique Peña Nieto before the end of the year. U.S.-based and international civil society organizations [opposed its passing](#), joining previous expressions of opposition from Mexican civil society organizations, United Nations [representatives](#), Mexico's own [National Human Rights Commission](#) and the [Inter-American Commission of Human Rights](#).

The bill proposes to allow the military to intervene in police investigations, lacks regulations on use of force and guidelines for the armed forces in confrontations, and empowers the president to take more unilateral actions with regards to the military, weakening the role of the legislative and judiciary to check the executive regarding military force. The execution of the twenty-two civilians by soldiers in the town of Tlatlaya in 2014 is one emblematic example of the military's excessive use of force and possible alteration of a crime scene. Hardly any cases of violations by Mexican soldiers are investigated and sanctioned in civilian jurisdiction, and most remain in impunity. The security bill focuses entirely on the role of the armed forces and does not make any reference to ways in which the Mexican police could be reformed.

### **Recommendations for U.S. Policy**

- Encourage the Mexican government to **provide the families of the 43 disappeared Ayotzinapa students with the truth around the case instead of repeating a narrative that has been proven impossible and, together with the follow-up mechanism, move forward in investigating and prosecuting** authorities and the military regarding the irregularities committed in the investigation of the case so far, such as the torture of suspects.
- Raise with the Mexican government **the need for a prompt, thorough, and transparent investigation into the use of advanced spyware to target human rights defenders, journalists, activists, and international experts** and to ensure the victims are informed of the progress in the case. The U.S. State Department should investigate the potential violations of U.S. law, including spying on a U.S. citizen, on foreign citizens while residing in the U.S., and on the impersonation of the U.S. government by a foreign entity.
- **Urge the Mexican government to fund the various mechanisms of the *General Law on Enforced Disappearances and Disappearances Committed by Non-State Actors* and the *General Law to Prevent, Investigate and Sanction Torture and Other Cruel, Inhumane or Degrading Treatment* as soon as possible**, especially the work of the specialized prosecutor's offices to investigate and prosecute cases under both laws; as well as the search, registration, and identification of bodies under the Disappearance Law and to ensure all relevant authorities cooperate fully with the implementation of the Laws in consultations with the families of victims, independent experts, and NGOs.
- Continue supporting Mexico's efforts **to protect human rights defenders and journalists, strengthen the rule of law, including its criminal justice system reform and full transition to an accusatorial system.**