

## **Update on the Human Rights Situation in Mexico April 2018**

Mexico's human rights situation remains concerning in 2018. According to the Mexican National Human Rights Commission [2017 report](#), the Mexican government has failed to strengthen the rule of law, address impunity, and make progress on emblematic cases of grave human rights violations during the term of President Enrique Peña Nieto. This memo provides details in the following areas and concludes with recommendations for U.S. policymakers on how to ensure that the protection of human rights and rule of law remain a part of the U.S.-Mexico bilateral relationship.

- Situation of human rights defenders & journalists
- Addressing the crisis of disappearances
- Stalled progress in investigation of the 43 disappeared Ayotzinapa students
- Efforts continue to institutionalize the military's role in public security operations

### **Situation of human rights defenders & journalists**

#### **More attacks, no investigations & prosecutions**

According to the [Committee to Protect Journalists](#), Mexico was the most dangerous country in the world not experiencing armed conflict for journalists last year. In 2018, [three journalists](#) were killed in the states of Tamaulipas, Guerrero, and Veracruz, in addition to the twelve killed in 2017. A new [Articulo 19 report](#) documents 1,986 aggressions against journalists in the past five years, of which eight percent are thought to have been committed by members of organized crime groups and 48 percent are attributed to local, state, and federal government officials. Impunity for these crimes is the norm. The new head of the office of the Special Prosecutor for Attention for Crimes Against Freedom of Expression (FEADLE) in the Attorney General's Office attempted to [improve](#) the way cases are investigated, but the office remains severely underfunded and, of the nearly 800 investigations opened since 2010, none have resulted in a conviction. There has been limited progress at the state level. Two Mexican police were recently [convicted](#) to 25 years in prison for their role in the murder of a journalist in the state of Veracruz in 2015.

The case involving the use of spyware technology, only sold to governments for anti-terrorism purposes, to spy on human rights defenders, journalists, and anti-corruption activists as well as members of the Group of Independent Experts working on the Ayotzinapa case, remains stalled in the Attorney General's Office.

In mid-February, civil society organizations working on the case [denounced](#) the lack of follow up on areas of the investigation, including not investigating public officials who potentially operated the spyware, related videos, cameras, or other technology and the locations where the spyware may have been used. A New York Times [article](#) highlighted that U.S. officials rejected the Mexican government's request for assistance in the investigation, concerned that their collaboration would be used as an excuse to provide credibility to what seemed like a case that was not being taken seriously. The Attorney General's Office continues to insist that it needs to examine the victims' cell phones to advance the investigation. However, civil society groups deem this claim unnecessary, as the servers used for the spyware should have records that can be analyzed. Moving forward, it remains crucial that the Attorney General's office advance an independent and transparent investigation, guaranteeing that all lines of investigation are addressed and that victims and lawyers are kept informed on the progress of the case.

Excessive local level use of force against human rights defenders persists as demonstrated by a [case](#) from January of this year. A mixed operation by security forces arbitrarily arrested over thirty individuals from the Concepción Community in Guerrero, following their opposition to a hydroelectric project; torturing at least ten and extrajudicially executing three individuals. The Tlachinollan Human Rights Center was threatened for its work representing the individuals and has faced difficulty in accessing the detained. Civil society organizations have concerns about the deterioration of security for human rights defenders in states like Guerrero leading up to the elections.

## **Addressing the crisis of disappearances**

### **Implementation of new Disappearance Law delayed & lacks consultation with families**

The crisis of disappearances remains serious and widespread in Mexico. Recent urban cases, such as the disappearance of [three film students](#) in the state of Jalisco, have received public outrage on social media from civil society and international organizations. A new report details how 42 percent of the country's [over 35,000 officially registered](#) disappearances [take place in Mexico's northern border-states](#).

The Mexican government finally approved Mexico's new [General Law on Enforced Disappearances and Disappearances Committed by Non-State Actors](#) at the end of last year, a good step to address the crisis. However, since coming into force in mid-January 2018, creation of key mechanisms have been delayed and consultations with collectives of families of the disappeared, as dictated by the Law, have been lacking.

According to the families of the disappeared, the process to select the head of one of the key bodies created under the Law—the National Search Commission (*Comisión Nacional de Búsqueda*) tasked with coordinating the search and identification of the disappeared with local law enforcement and establishing a national registry of the disappeared—lacked [transparency and engagement](#) with the proposed candidates. The new [Commissioner](#) was finally approved by the Undersecretary of Human Rights in early March, a month behind the timeline established under the law. Moreover, the National Search Commission was first established within the National Security Commission instead of the Ministry of the Interior (Secretaría de Gobernación), without consultation with the families. However, after they expressed [opposition](#), it was moved accordingly.

The law also required consultation of families in the development of regulations to create the federal specialized prosecutor's office, the office to investigate and prosecute disappearances under the Attorney General's Office. However, published in mid-February, the regulations did not include their participation. Moreover, they lacked [clarification](#) on the [responsibilities](#) of the office vis a vis other units within the Attorney General's Office in investigating disappearance cases. They also failed to define coordination with the state-level specialized prosecutor's offices. Both the state and federal specialized prosecutor's offices are crucial in addressing impunity in enforced disappearances. State-level specialized prosecutor offices were to be created in all 32 states by mid-February. However, the majority of states still do not have them.

### **Steps to full implementation**

The state-level search commissions should have also been created by mid-April under the umbrella of the National Search Commission, though none exist yet. The members of the Citizens' Council, the monitoring body for the Law, were approved by the Mexican Senate and include five representatives of associations of families of the disappeared, four experts, and four civil society members. By July, the comprehensive regulations defining the implementation of the law should be finalized. Currently, the Office of the Undersecretary for Human Rights and civil society are negotiating them.

Following the establishment of the key mechanisms under the law, the implementation of search and investigation protocols and the national registry of exhumations and the disappeared should proceed as well as the training of government officials, local law enforcement, and forensic experts on these. This is crucial for the first steps in the search, identification, and investigation processes. Efforts to pass state level laws, such as those in the state of [Veracruz](#), should also be coordinated with the efforts at the national level.

### **Limited progress in investigating chain-of-command responsibility in disappearances**

In mid-February, an estimated thirty former higher level state security officials and members of the police involved in a paramilitary group that [carried out disappearances and acts of torture](#) of mainly young men in the state of Veracruz in 2013 were [arrested](#). This was the first case following the implementation of the law to investigate chain-of-command responsibility. Though the state-level Attorney General's office will be crucial in moving the case forward and sentencing for the accused, the case sets an [important precedent](#) in justice for enforced disappearances and torture committed by government officials and the police.

### **Stalled progress in investigation of 43 disappeared Ayotzinapa students**

#### **UN Report provides more evidence disproving government's theory**

At three and a half years following the disappearance of the 43 students from the Ayotzinapa rural teacher's college, the Mexican government is still sticking to its version of the case. Yet, civil society organizations and the United Nations Office of the High Commissioner for Human Rights in Mexico (OHCHR-Mexico) have produced more evidence that refutes and expands on the number of violations. The government has also refused to move forward on approving a plan for advancing the investigation for the next few months, including providing attention to the victims and family members of the case.

A new report by the OHCHR-Mexico, "[Double Injustice](#)," sheds further light on the Group of Experts' findings. It documents evidence of a *modus operandi* of arbitrary arrests of suspects by federal authorities and delayed presentation of them to a public prosecutor; torture in the first few hours of the arrest to elicit a confession and transferring the individual to the Office of the Assistant Attorney-General for Special Investigations on Organized Crime (SEIDO) where torture often continued. Officials involved in these processes identified by the report are staff of the Attorney General's Office, SEIDO, the Criminal Investigation Agency, and personnel of the Federal Police and the Mexican Navy.

This report backs evidence that federal authorities thwarted efforts to investigate these violations within the Internal Oversight Office of the Attorney General's Office. Based on its findings, OHCHR-Mexico determined that these violations were insufficiently addressed and urged the Attorney General's Office to investigate the acts of torture, arbitrary arrests, and other human rights violations. It also recommended an internal investigation by the Oversight Office to hold officials responsible for committing these acts and declare void any testimony obtained under torture. The families of the students and [Mexico's National Human Rights Commission](#) (CNDH) [supported](#) the report. Meanwhile, the Mexican government in its official [response](#) said the report provided no new information and that it had already addressed its findings, prompting concern that it discussed matters under litigation and had omitted information.

#### **Key lines of investigation stalled & families lack attention and responses**

At an Inter-American Commission (IACHR) [hearing](#) on the case on March 2, 2018, family members of the disappeared students and civil society organizations presented on the government's failure to follow-up on key lines of investigation identified by the Interdisciplinary Group of Independent Experts (GIEI) such as the students' cell phone activity, the role of the military and federal police, and the trafficking of heroin from Iguala to Chicago. The hearing came after an [official visit](#) from the IACHR-backed follow-up mechanism to Mexico in February 2018.

Due to the stalled investigation and the government's insistence on its version of the events, surviving students and families of the disappeared students continue to suffer re-victimization, trauma, and longer-term psychosocial impacts. Simultaneously, attention and psychological assistance for them remains negligent, according to a new civil society [report](#). The report proposes a comprehensive plan for the government to remedy the neglect by protecting the families, ensuring reparations for violations, and abandoning the version of events that is overwhelmingly disproven. To date, the government has not accepted this plan.

#### **No progress in arresting higher-level officials, police & military**

On March 13, 2018, the Mexican government arrested Erick Uriel, a member of the Guerreros Unidos criminal group. While the government portrayed him as a key player in the students' disappearance, civil society groups have [stated](#) that he was a lower-level individual not involved in decision-making. Civil society further states that the government has refused to move forward on prosecuting higher-level officials involved. Before Uriel's arrest, there had not been a single new arrest in the case since 2014. Federal and municipal police implicated in the case remain at large. On April 12, Mexican media outlets [published](#) records of phone conversations captured by the U.S. Department of Justice between the heads of the Guerreros Unidos cartel in Mexico and cartel members in Chicago, alluding to the possibility of about 60 individuals that could have

been disappeared, instead of just 43 on September 26, 2014. The timing of the phone messages is after the time when Mexican government alleged the students had been incinerated, [contradicting](#) their theory further.

In order to ensure that outstanding lines of the investigation are addressed in coming months, the Mexican government and members of the Follow-Up Mechanism need to define and implement a work plan.

### **Efforts continue to institutionalize the military's role in public security operations**

Opposition to Mexico's Internal Security Law is increasing. Most recently, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, [expressed](#) "concern that a new internal security law authorizes use of the armed forces in law enforcement without adequate guarantees and oversight, and does not meet international human rights standards." Currently, at least 700 legal actions challenge the law and over a dozen constitutional challenges are filed before Mexico's Supreme Court. The President committed to wait to implement the law until all challenges are resolved, but it is unclear when this will happen.

However, in a recent IACHR [hearing](#), the Mexican government [justified](#) the law. It stated that "civilian law enforcement agencies had been compromised by ties to criminal gangs in several cases," ignoring other factors, including the fact that the deployment of the armed forces has increased violence in parts of the country and the high rate of human rights violations committed with impunity by soldiers and marines. Mexico's Defense Minister has [said](#) that, rather than this law, the military asked for only a normative framework for their role in confrontations with organized crime. Continued efforts to implement the law, instead of advancing investigations and prosecutions into abuses by the military when [98 percent of abuses](#) by soldiers between 2012 and 2016 are unpunished, is extremely concerning.

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

- Urge the Mexican government to investigate and prosecute abuses of excessive use of force, extrajudicial executions, torture, and disappearances by the Mexican armed forces, including providing transparency surrounding violations committed in confrontations with civilians and organized crime.
- Urge the Mexican government to ensure protections for human rights defenders to assemble and protest peacefully.
- Encourage the Mexican government to establish and implement a plan with the IACHR-backed Follow-up Mechanism for the remainder of the year to move forward on the case of the 43 disappeared Ayotzinapa students, including a plan to provide the victims' and their families with protections and attention; advance investigations and prosecutions of civilian and military authorities and irregularities committed in the investigation of the case so far, such as the torture of suspects; instead of repeating a narrative which has been disproven by international organizations.
- Raise with the Mexican government the need to advance the key lines of investigation into the use of advanced spyware to target human rights defenders, journalists, activists, and international experts, including examining the role of government officials, locations, and technology utilized, and to ensure the victims are informed of the progress in the case.
- Urge the Mexican government to ensure the effective and well-funded implementation 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, including the establishment of the federal and state specialized prosecutor's offices to investigate and prosecute cases under both laws; and the establishment of the search, registration, and identification bodies and monitoring Citizen's Council under the Disappearance Law in consultations with the families of victims, independent experts, and NGOs.
- Ensure continued support for Mexico's efforts to strengthen the rule of law, including justice system reform and the full transition to a new and independent National Prosecutor's Office, or *Fiscalía General de la República*, in consultation with civil society organizations to select the new Prosecutor.

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