

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

<https://www.hrw.org/world-report/2018/country-chapters/mexico>

### Annual reports

Events of 2017

Mexican marine soldiers guard an area after a shootout between gang members and the Mexican army in Mexico City, Mexico July 20, 2017.

2017 Reuters/Carlos Jasso

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People Born with Atypical Sex Characteristics Battle For Informed Consent

Transparency in the Apparel Industry

The Case for the Right to a Healthy Environment

During the administration of President Enrique Peña Nieto, which began in 2012, security forces have been implicated in repeated, serious human rights violations during efforts to combat organized crime including extrajudicial killings, enforced disappearances, and torture. The government has made little progress in prosecuting those responsible for recent abuses, let alone the large number of abuses committed by soldiers and police since former President Felipe Calderón initiated Mexico's war on drugs in 2006.

In April, the Mexican Congress passed legislation to curb torture and the use of coerced evidence during judicial proceedings. Implementation of the law remained pending at time of writing.

Since 2006, Mexico's security forces have carried out widespread enforced disappearances.

In August 2017, the government reported that the whereabouts of more than 32,000 people who had gone missing since 2006 remain unknown. Prosecutors and police routinely fail to take basic investigative steps to identify those responsible for enforced disappearances, often telling the missing people's families to investigate on their own. Authorities have routinely failed to identify remains of bodies or body parts found in various locations, including in clandestine graves, throughout the country.

The federal government has pursued potentially promising initiatives to find people who have gone missing, but they have produced limited results. In 2013, it created a unit in the Attorney General's Office to investigate disappearances, which became a Special Prosecutors Office in October 2015. However, the office has made only limited progress in investigating and prosecuting cases of forced disappearance.

In 2015, Congress approved a constitutional reform giving it authority to pass general laws on enforced disappearances and torture that would establish a single nationwide definition for each of the crimes and facilitate their prosecution in all 31 states and Mexico City. The law was passed in November 2017. At time of writing, its implementation remained pending.

Mexican authorities have failed to make progress in determining what happened to 43 missing students from the teachers college in Ayotzinapa who disappeared in 2014 and are believed killed. Only one of the students has been positively identified among remains that

the government says are those of the students. The Attorney Generals Office has failed to conduct in-depth investigations following recommendations made by the Interdisciplinary Group of Independent Experts (GIEI), established through an agreement between the government and the Inter-American Commission on Human Rights (IACHR).

At time of writing, more than 100 people had been charged with alleged involvement in the abductions, yet prosecutors had neither presented accusations against state or federal authorities nor against members of the armed forces, despite indications of their involvement.

An August 2016 internal report from the Attorney Generals Office about the Ayotzinapa investigations established that investigators had broken the law and had engaged in arbitrary detentions and the coercion of alleged suspects. The inspector general who wrote the report claimed that the Attorney Generals Office asked him to step down shortly after he presented the report to his superiors. The report was rewritten, and the version that the Attorney Generals Office eventually published concluded that only a handful of minor violations had been committed.

Unlawful killings of civilians by Mexican security forces take place at an alarmingly high rate amid an atmosphere of systematic and endemic impunity, according to the United Nations special rapporteur on extrajudicial, summary, or arbitrary executions in 2014.

In August 2016, the National Human Rights Commission (CNDH) concluded that federal police arbitrarily executed 22 of 42 civilians who died in a confrontation in 2015 in Tanhuato, Michoacán State. Police fatally shot at least 13 people in the back, tortured two detainees, and burned a man alive, the CNDH concluded, then altered the crime scene by moving bodies and planting guns to justify the illegal killings. At time of writing, nobody had been charged and a federal investigation into the Tanhuato killings remained open.

Mexico has relied heavily on the military to fight drug-related violence and organized crime, leading to widespread human rights violations by military personnel. As of July 2016, the CNDH had received almost 10,000 complaints of abuse by the army since 2006 including more than 2,000 during the current administration. It found in more than 100 cases that military personnel committed serious human rights violations.

In November 2017, the Chamber of Deputies approved the Law on Internal Security, authorizing military involvement in domestic law enforcement activities including intelligence gathering without including meaningful measures to improve accountability. At time of writing, the proposal was under discussion in the Senate.

In 2014, Congress reformed the Code of Military Justice to require that abuses committed by members of the military against civilians be handled by the civilian criminal justice system rather than the military system, which had a history of routinely failing to hold members of the military accountable for abuses.

In May 2016, provisions included in a new Military Code of Criminal Procedure and in reforms to the Code of Military Justice granted military prosecutors and judges broad powers to order the search of homes and public buildings, and to listen to private telecommunications, without a judicial order issued by a civilian judge. In June 2016, the CNDH challenged the constitutionality of these provisions. At time of writing, a Supreme Court decision was still pending.

In the case of Tlatlaya, where soldiers killed 22 civilians in 2014 witnesses and the CNDH reported that they extrajudicially executed at least 12 of them nobody has been convicted of the killings. In May 2016, a civilian, federal court absolved the last of eight soldiers charged with homicide. However, in July 2017, a judge ordered the Attorney Generals Office to investigate the case in-depth, including the responsibility of military commanders and the alteration of the crime scene. The Attorney Generals Office appealed the ruling. The appeal was pending resolution at time of writing.

Torture is widely practiced in Mexico to obtain confessions and extract information. It is most frequently applied in the period between when victims are detained, often arbitrarily, and when they are handed over to civilian prosecutors, a period in which they are often held incommunicado at military bases or illegal detention sites.

According to a survey of more than 64,000 people incarcerated in 370 Mexican prisons located throughout the country in 2016, performed by Mexico's national statistics office (Instituto Nacional de Estadística y Geografía INEGI), 57.8 percent of the prison population reported having suffered some type of physical violence at the time of their arrest. Of these people, 19 percent reported receiving electrical shocks; 36 percent being choked, held underwater, or smothered; and 59 percent being hit or kicked. In addition, 28 percent reported that they were threatened that their family would be harmed.

In April 2017, the Mexican legislature approved the Law to Investigate, Prevent, and Sanction Torture, aimed at curbing torture and excluding testimony obtained through torture from judicial proceedings. At time of writing, implementation of the law remained pending.

As of June 30, 2017, the Specialized Unit for the Investigation of the Crime of Torture a unit within the Attorney Generals Office had 4,390 ongoing investigations into alleged cases of torture. Additionally, between September 2016 and June 2017, courts ordered more than 750 criminal investigations into allegations of torture.

The Interdisciplinary Group of Independent Experts, established through an agreement between the government and the IACHR concluded in April 2016 that 80 percent of the suspects detained in connection with the Ayotzinapa case showed bodily injuries possibly due to ill treatment and torture. As of September 2017, the Attorney Generals Office was conducting six investigations related to the alleged torture of 31 people. None of the investigations had been finalized at time of writing.

According to the CNDH, Mexico State prosecutors sought to cover up military wrongdoing in the Tlatlaya case by using torture to coerce false testimony from witnesses. Four police officers were sentenced to three years and eight months imprisonment for the crime. As of September 2017 more than three years after the massacre nobody has been convicted in connection with the cover-up.

The criminal justice system routinely fails to provide justice to victims of violent crimes and human rights violations. Causes of failure include corruption, inadequate training and resources, and complicity of prosecutors and public defenders with criminals and abusive

officials. The failure of law enforcement has contributed to the emergence of armed citizen self-defense groups in several parts of the country.

In 2013, Mexico enacted a federal Victims Law intended to ensure justice, protection, and reparations for crime victims. Reforms to the law, intended to reduce bureaucracy and improve access to aid and reparations for victims, were approved in January 2017.

Journalists, particularly those who report on crime or criticize officials, face harassment and attack by both government authorities and criminal groups. Journalists are often driven to self-censorship as a result.

From 2000 through October 2017, 104 journalists were killed and 25 disappeared, according to the Attorney Generals Office. The nongovernmental organization (NGO) Article 19 documented eight cases of journalists killed and one disappeared between January and July 2017.

Authorities routinely fail to investigate crimes against journalists adequately, often preemptively ruling out their profession as a motive. The CNDH reported in 2016 that 90 percent of crimes against journalists in Mexico since 2000 have gone unpunished, including 82 percent of killings and 100 percent of disappearances. Since its creation in July 2010, the Special Prosecutors Office for Crimes against Freedom of Expression has opened more than 1,000 investigations into crimes against journalists. As of October 2017, it has brought charges in 115 cases and obtained only 3 convictions.

In July 2017, an investigation by Citizen Lab, a research center at the University of Toronto, showed that at least 11 human rights activists and journalists (as well as the 16-year-old son of a journalist) and members of the GIEI had been targets of a spyware campaign conducted with sophisticated software bought by the Mexican government. A senator and two high-ranking members of the main opposition party were also targeted. The affected activists filed complaints with the Attorney Generals Office, which opened an investigation.

By October 2016, 617 people had received protection under a 2012 law to protect journalists and human rights defenders. However, protection has been slow to arrive or, in some cases, insufficient.

Mexican laws do not adequately protect women and girls against domestic and sexual violence. Some provisions, including those that make the severity of punishments for some sexual offenses contingent upon the chastity of the victim, contradict international standards.

Eighteen of Mexico's 31 states have passed laws establishing that there is a right to life from the moment of conception. Although the Supreme Court ruled in 2010 that all states must provide emergency contraception and access to abortion for rape victims, many women and girls face serious barriers accessing abortions after sexual violence, including official intimidation.

Apprehensions of unaccompanied children from the Northern Triangle countries of El Salvador, Guatemala, and Honduras decreased sharply in the first seven months of 2017 compared with the same period in 2016, and asylum recognition rates for unaccompanied children from these countries have risen in recent years. Even so, less than 1 percent of those apprehended each year received international protection, far short of the likely need: the UN High Commissioner for Refugees (UNHCR) has estimated that as many as half of the unaccompanied children who arrive in Mexico from the Northern Triangle have plausible asylum claims that should be seriously considered.

Same-sex marriage has been legal in Mexico City since 2010. It is also permitted in 10 additional states (eight of which have reformed their local legislation to allow it and two where the Supreme Court invalidated articles of the local Civil Code, therefore permitting it without a legislative change). In 2015, the Supreme Court opened the door to recognition in all states by ruling that defining marriage exclusively as a union between a man and a woman constitutes discrimination and thus violates Mexico's Constitution.

In May 2016, President Peña Nieto introduced bills to recognize same-sex marriage in the constitution and the Federal Civil Code. This would have also removed sexual orientation and gender identity as barriers to adoption. However, the federal bill was rejected when two committees in the Chamber of Deputies voted against the initiative in November 2016.

At the same time, President Peña Nieto instructed federal agencies to recognize gender identity through the reissuance of birth certificates and passports, without a doctor's involvement. He also instructed the Secretariat of Education to include sexual diversity among the new educational materials. It had yet to do so at time of writing.

In a 2014 report, the UN Committee on the Rights of Persons with Disabilities found that, despite new laws and programs protecting the rights of the disabled, serious gaps remained, including in access to justice, legal standing, and the right to vote; access to buildings, transportation, and public spaces; violence against women; and education.

In 2015, Disability Rights International reported that conditions were inhumane in Mexico City's government-funded facilities for people with disabilities, including one institution that locked children in cages. The report also documented that women with psychosocial disabilities at state-run clinics in Mexico City were sometimes pressured into being sterilized or, when pregnant, into having abortions.

Mexico made no progress in the implementation of the right to legal capacity for persons with disabilities. In addition, it amended the General Education Law in June 2016, enabling the special education of children with disabilities in schools.

In February 2016, Mexico's Supreme Court determined the requirement that people on the autistic spectrum obtain a certificate of ability to work violates Mexico's Constitution, as well as international human rights standards.

In September, the UN Committee on Migrant Workers published a preliminary report in which it expressed its concern about the grave irregularities in the identification of the victims and those responsible for the mass murders of migrants committed between 2010 and 2012 in the states of Nuevo Lén and Tamaulipas. It also urged the state to guarantee the rights of migrants in transit and called upon Mexican authorities to only use the detention of migrants as a measure of last resort, to improve conditions of detention, and to immediately put an end to the detention of migrant children.

In January, after his visit to the country, the UN special rapporteur on human rights defenders raised concerns about attacks against human rights defenders and criminalization of their activities. In May, the special rapporteurs on freedom of expression from the UN and the IACHR issued a joint statement urging the Mexican government to end [the] epidemic of violence against journalists.

In April, the UN working group on human rights and business had also urged the government to better protect human rights defenders and journalists, as well as to implement mechanisms to create social dialogue about large-scale projects and improve efforts to combat gender-based discrimination in the workplace.

The IACHR published a report in March 2016 documenting a wide range of abuses in Mexico including disappearances; extrajudicial executions; torture; and insecurity for women, children, migrants, human rights defenders, and journalists which they concluded amounted to a crisis of gross human rights violations. The government criticized the report, responding that there was no human rights crisis in Mexico. Later that month, Mexican authorities denied UN Special Rapporteur on Torture Juan Mndez permission to return before the end of his term, rejecting his conclusion that torture was widespread and accusing him of acting unethically.

In October 2016, the Office of the UN High Commissioner for Human Rights (OHCHR) issued 14 recommendations to Mexico on the need to address impunity for human rights violations, adopt laws to regulate the use of force and eliminate torture and enforced disappearances, and establish an independent forensic institution with adequate resources. In May 2016, the UN special rapporteur on extrajudicial, summary, or arbitrary executions released a report on Mexico identifying continuing serious violations, including extrajudicial killings and excessive use of force by security forces, impunity, and lack of reparations for victims.

Since 2007, the United States has allocated more than US\$1.6 billion in aid through the Mrida Initiative to help combat organized crime. In 2015, the US secretary of state withheld \$5 million in security aid, saying the State Department could not confirm that Mexico had met the agreements human rights criteria, but Mexico received its full Mrida aid the following year. In 2017, the Mrida aid was \$139 million.

Human Rights Watch defends the rights of people in 90 countries worldwide, spotlighting abuses and bringing perpetrators to justice

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