



2016 Review: Addressing Mexico's Human Rights and Security Situation

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The past decade in Mexico—marked by the start of the “war on drugs”—has been fraught with alarming levels of violence and crime and a dramatic increase in human rights violations by Mexican security forces. As 2016 comes to a close, it's clear that this year has been no different: homicide numbers are on the rise and the government has been unwilling or unable to curtail the impunity that prevails for human rights violations, enabling abuses to continue largely unabated.

Mexican president Enrique Peña Nieto began his six-year term in December 2012 on a high note, with satisfactory [approval ratings](#) and early economic and telecommunication reforms that were widely praised. When he took office he promised a new security strategy and a [fundamental focus](#) on “transforming into reality the human rights enshrined in the Constitution.” By 2014, high-profile scandals such as [Casa Blanca](#) and the case of the 43 forcibly disappeared students in Guerrero shifted attention back to the [government's failure](#) to effectively address insecurity, corruption, and human rights abuses. In August 2016, Peña Nieto's approval rating dropped to just [23 percent](#). With two remaining years in office, Peña Nieto still has a small window of opportunity to demonstrate that his government is capable and willing to address the intertwined issues of insecurity, corruption, human rights violations, and impunity that persist in Mexico.

INSECURITY BY THE NUMBERS

According to the most recent government survey on public perceptions of victimization and public security conducted by Mexico's National Institute for Statistics and Geography (*Instituto Nacional de Estadística y Geografía*, INEGI), [59 percent](#) of Mexicans believe insecurity is the most important issue facing the country. That same survey revealed that 72 percent of Mexicans believe the state in which they live is dangerous due to crime.

More than [186,000 people have been killed](#) during the ten years of the “war on drugs” in Mexico which have been marked by military-led operations to combat organized criminal groups in the country. After dropping between 2011 and 2014, Mexico's homicide rates began to rise again in 2015. By October 2016, there was a [23 percent increase](#) in reported homicides compared to the same period in 2014 (January- October). In the first ten months of 2016, there has been an average of 56 reported homicides per day.

Other violent crimes [remained high](#) in 2016. The number of reported kidnapping cases has risen four percent between 2015 and 2016. Reported cases of extortion saw a drop over the past three years, but they remain higher than the cases reported a decade ago.

More worrying is that these statistics represent only reported crimes. INEGI estimated that in 2015, [only 10.5 percent](#) of total crimes committed in Mexico were reported. Among the cases reported, an

investigation was opened about 60 percent of the time; however, in 46 percent of the investigations, the survey found that nothing happened or the case was not resolved. INEGI concluded that 94 percent of crimes in Mexico are either not reported or never investigated and that many citizens do not report crimes because they consider it a waste of time (33 percent) or they do not trust the authorities (17 percent). Such a high rate of failure to hold perpetrators accountable for crimes creates an environment conducive to repeat offenders and continued crime, as perpetrators are not likely to face consequences.

POLICE REFORM AND THE CONTINUED MILITARIZATION OF PUBLIC SECURITY

Establishing rights-respecting police forces that citizens can trust is an essential component to addressing insecurity and strengthening the rule of law in the country. Although Peña Nieto committed to recovering citizens' trust in their police, reform efforts appear stagnated. According to INEGI's nation-wide [survey](#), just over half of the population has trust in Mexico's state and municipal police, with the Federal Police fairsing slightly better at 65 percent. Mexicans continue to view their police forces as corrupt, with 76 percent of Mexicans viewing transit police as the most corrupt, followed by municipal police, federal investigative police, and state police. State and municipal agents also continue to be implicated in human rights violations, such as [torture](#) and [forced disappearances](#). Mexico's National Human Rights Commission (*Comisión Nacional de los Derechos Humanos, CNDH*) received [612 complaints](#) of human rights violations committed by federal police agents between January and October 2016 including allegations of torture, enforced disappearances, and unlawful killings.

The Mexican government has continued with the police evaluation and accreditation system that was set up by former president Felipe Calderón and, as of October 2016, 99 percent of Mexico's state and municipal police and federal agents have gone through [the vetting program](#) (*Sistema Nacional de Acreditación y Control de Confianza*). However, several forces have agents up for renewed exams and there continue to be challenges regarding what to do with agents who do not pass the vetting exams. This is particularly concerning considering that many of the states with the highest percentage of failure rates—such as Sinaloa, Guerrero, and Michoacán—also have significant levels of violence and organized criminal activity.

Although police vetting at recruitment and at periodic intervals is important, this should be complemented by creating and strengthening internal controls over the police, such as Internal Affairs Units. However, a January 2016 report by the Mexican organization [Causa en Común](#) found that of the 30 existing internal affairs units for state police, only six comply with the requirements developed to gauge whether they function appropriately. Four states presented serious deficiencies in their legal framework and procedures and the internal affairs units in the majority of the states lacked the personnel necessary to be effective.

At the federal level, the [Federal Police](#) grew significantly during Calderón's presidency. However, apart from the creation of the Gendarmerie as a special division of the federal force, Peña Nieto has done very little to increase its size and capacity so that it can take over the public security role that the Mexican military has for over two decades in Mexico which has blurred the lines between civilian and military control and resulted in grave human rights violations by soldiers. In recent weeks, the Mexican Defense Minister (*Secretario de la Defensa Nacional*), [Salvador Cienfuegos](#), himself has pushed back on the military's continued role in public security, affirming that he would be the first one to raise both hands in favor of returning the military to its constitutional role in national security.

Cienfuegos has also pushed for the establishment of a legal framework for the military's role in public security. This has prompted a congressional debate about an Internal Security Law (*Ley de Seguridad Interior*) which will be discussed in the coming months. Together with Mexican human rights organizations

and experts, [WOLA](#) has called for an open debate about the proposed security law that includes civil society participation and asserted that rather than extending the military's role in public security, the law should include a plan to gradually return soldiers to their barracks.

CRIMINAL JUSTICE SYSTEM REFORM

The need to prioritize police reform and professionalization is also important as Mexico continues with its efforts to [overhaul the criminal justice system](#). Although after eight years of transition, Mexico has a new criminal justice system on paper, much remains to be done for Mexico to enjoy a system that holds perpetrators accountable for crimes while ensuring respect for human rights. As of September 2015, many officials within the system, including 89 percent of the police, had not been trained on changes in their roles and responsibilities under the new system. As WOLA has previously noted, training the police, a task that was largely overlooked in the first years of transition, is particularly important because all police can now receive reports of crimes and act as "first responders" to the scene, and take basic investigative actions before prosecutors take control of the scene (previously only investigative police had these responsibilities).

Another key element to an effective transformation of Mexico's criminal justice system is the establishment of an independent national prosecutor's office. In recognition of this need, the Mexican Constitution was amended in 2014 to replace the Federal Attorney General's Office (*Procuraduría General de la República*, PGR) which is under the executive branch, with an independent national prosecutor (*Fiscalía General de la República*). In order for the transformation to take place, the Mexican Congress needs to undertake several [legislative actions](#) including issuing a decree acknowledging that the *Fiscalía* is an autonomous body and a law that establishes how the *Fiscalía* will function. Congress' actions and those of Peña Nieto in 2017 will determine whether the new body is granted the independence and structure it needs to be effective or whether it will repeat the same vices and bad practices that made the PGR largely ineffective and have allowed criminal investigations and prosecutions to be politically manipulated.

TORTURE

Reports of torture by Mexican authorities remained high in 2016. Between January and October 2016, the CNDH registered [657 reports](#) of torture and cruel and inhuman treatment committed by federal authorities. In April 2016, Mexico's army came under fire when a video clip from 2015 surfaced showing soldiers and federal police officers [torturing a detained woman](#) in the state of Guerrero.

A 2016 Amnesty International [report](#) involving interviews with 100 imprisoned women who reported torture or ill-treatment, found that women are "routinely sexually abused by the security forces who want to secure confessions." The study found that all of the interviewees were subject to sexual harassment or psychological abuse during their arrest and interrogation, 97 percent were subject to physical violence, and 72 percent were subject to sexual violence. In September 2016, the Inter-American Commission on Human Rights (IACHR) [announced](#) that it was sending to the Inter-American Court of Human Rights the 2006 case of sexual torture by state agents against eleven women in Atenco, Mexico State that occurred when Peña Nieto was governor due to the government's failure to investigate the acts "with due diligence and in a reasonable time."

In December 2015, the PGR created a special unit for the investigation of torture. Since its creation through September 2016, the special unit reports having received [4,526 reports of torture](#); however, only 14 arrest warrants have been issued. Despite widespread use of torture in Mexico and the large number of cases reported to authorities, the Mexican government reports [only 15 convictions](#) of federal agents for this crime since 1999.

Since 2015, Mexico's Congress has been debating a new Law to Prevent and Sanction Torture. While the new law should help Mexico's domestic legislation meet international human rights standards, many [concerns remain](#) about the current text of the bill, including that it doesn't go far enough to bar evidence obtained through torture from being admitted in court. In a December 12 letter, Jan Jarab, the representative in Mexico for the UN High Commissioner for Human Rights, encouraged the Chamber of Deputies not to pass modifications that [weaken safeguards](#) to prevent torture. It is expected that the final bill will be passed in Congress in the first session of 2017.

Whether the final bill will contain strengthened or weakened safeguards against torture remains to be seen. In any case, experience shows that even with the existing safeguards in place, the use of evidence obtained through torture persists in criminal proceedings. For example, in the Mexico State, where the reformed judicial system was implemented in 2009, a [study](#) found that 18 percent of cases on file between 2010 and 2014 included information that suggested torture occurred. The study revealed that in 97.4 percent of these cases, the judge allowed all evidence to be admitted and the case to proceed as normal. Only in 2.6 percent of the cases did the judge exclude certain evidence, and there is no record of any judge ordering an investigation into torture or ill-treatment. By eliciting and admitting confessions gained through torture, officials in Mexico's criminal justice system not only put [innocent people](#) in jail, they are also let off the hook for investigating the true perpetrators of crime.

DISAPPEARANCES

Between January and October 2016, Mexico's official registry for missing and disappeared persons included [3,805 cases](#), surpassing the total number of cases in 2015 in just the first ten months of this year. Overall since 2007, Mexico has registered [29,196 disappearance cases](#); approximately 54 percent were reported during Peña Nieto's administration.

Based on information available from the federal government regarding the investigation of state officials responsible for enforced disappearances, 313 officials have been indicted for this crime and the government's reports that [only 13 have ever been convicted](#). Currently, the Special Prosecutor's Office within the PGR charged with searching for the disappeared has only [29 prosecutors](#) and 58 investigators working on nearly 1,000 federal cases.

In November 2016, the [IACHR](#) announced that it was sending to the Inter-American Court the case of the enforced disappearance of Nitza Paola Alvarado Espinoza, José Ángel Alvarado Herrera, and Rocío Irene Alvarado Reyes at the hands of members of the Mexican military that occurred in Chihuahua in December 2009.

The enforced disappearance of [43 students from Ayotzinapa](#) in September 2014 is the most widely publicized disappearance case in Mexico. Despite widespread international and national attention, more than two years later, the students have yet to be found and there have been no convictions to hold the perpetrators responsible. A group of international investigative experts, appointed by the IACHR, left Mexico in April 2016 after delivering two comprehensive reports detailing their findings. The experts concluded that the Mexican government's theory of the case was scientifically impossible, called for an investigation of Mexican officials [responsible for obstruction of justice](#) in the case, and recommended several lines of investigation to pursue. The experts maintain that this case could be resolved if the political will existed.

In July 2016, the IACHR established with the Mexican government and the representatives of the students' families a special [mechanism to follow up](#) on progress in the investigation and in implementing the Group of Expert's recommendations. The mechanism's team made its first follow-up visit in November

2016, [announcing](#) that its work will be based off the experts' conclusion that the government's theory of the case is impossible and the experts' investigative recommendations should be fully explored.

Like the Law on Torture, Mexico's Congress has also been considering a General Law on Disappeared Persons since 2015. In November 2016, civil society organizations collected over [17,000 signatures](#) urging the Senate to consider the recommendations proposed by families of disappeared persons and to prioritize the passage of the bill. As WOLA has [noted](#), the bill would establish obligations for federal, state, and local authorities, and improve coordination across jurisdictions. Apart from its prompt passage, Mexican authorities should demonstrate political will to equip their institutions with sufficient human and financial resources and capacities to effectively implement the law.

EXTRAJUDICIAL EXECUTIONS AND EXCESSIVE USE OF FORCE

In the first ten months of 2016, the CNDH received [25 reports](#) of killings by federal officials in Mexico, with 19 cases involving the military and/or Federal Police. The Tanhuato massacre—in which 42 civilians were killed in an armed confrontation with Federal Police in May 2015 in Tanhuato, Michoacán—is a recent exemplary case. In August 2016 the CNDH concluded that Federal Police had used excessive force in the incident and [arbitrarily killed at least 22 people](#). The CNDH also found that the police altered the scene of the crime and tortured two people.

Regarding the Tlatlaya massacre—another emblematic case in which 22 civilians were killed at the hands of soldiers in 2014 in Tlatlaya, State of Mexico—in May 2016 a federal civilian judge ordered the release of the three remaining soldiers who faced charges. The CNDH's investigation into this case determined that [at least 12 to 15 of the civilians](#) were extrajudicially executed by soldiers. After the judge's ruling, the PGR [committed](#) to providing additional evidence in the case, but it is not clear whether officials have taken any steps to move the case forward.

Apart from these widely publicized cases, in general, Mexico has an alarmingly [high number of civilian fatalities](#) versus wounded civilians in confrontations with security forces. This “fatality index” for the Mexican Army was 7.7 in 2013 and 11.4 in the first quarter of 2014, the last period when the Defense Ministry (*Secretaría de la Defensa Nacional, Sedena*) recorded this information. The fatality index for the Federal Police was 4.8. An index above 1 is considered an excessive use of force because, as the IACHR notes, “in authentic confrontations, there tend to be more people wounded than killed, because when police use force legitimately, they seek to maim and not to kill.”

These cases—as well as the [June 19 clashes](#) between protesters supportive of a teachers union in Oaxaca and armed state and Federal Police agents that left six people dead and dozens wounded—have renewed calls to create a General Law on the Use of Force in Mexico. This law would provide a stronger legal framework for security forces than the [existing](#) guidelines, directives, and protocols currently in use by the Federal Police and military. When the UN High Commissioner on Human Rights included in his [recommendations](#) that Mexico adopt a national use of force law, the Mexican government responded that it would “further analyze this recommendation.” It should be noted that the National Security Commissioner [Renato Sales](#) as well as [General Cienfuegos](#), support the creation of such law.

ATTACKS AGAINST HUMAN RIGHTS DEFENDERS AND JOURNALISTS

On December 10, [Jesús Adrián Rodríguez Samaniego](#), a journalist in Mexico's northern state of Chihuahua was shot and killed on his way into work. According to his family and colleagues, Rodríguez Samaniego had previously received death threats and had recently written an investigative piece about two people imprisoned based on fabricated evidence.

The international organization Article 19 reports that Rodríguez Samaniego was the [eleventh journalist killed](#) in Mexico this year likely due to their work, making 2016 the deadliest year since 2011 and since Peña Nieto took office. In a December 7 public event—three days before Rodríguez Samaniego’s murder—Mexico’s CNDH reported that [119 journalists have been killed in Mexico](#) since the year 2000, and that 20 journalists had disappeared since 2005.

The government is failing to investigate these crimes and hold the perpetrators accountable. Mexico’s Special Prosecutor for Crimes against Freedom of Expression reported that from 2010 to 2016, the office opened 798 investigations into crimes against journalists, but [only two cases](#) have resulted in convictions.

Human rights defenders face a similar situation though there is far less information available regarding cases, investigations, and sentences. The CNDH reported that [29 human rights defenders have been killed](#) in Mexico since 2006, and that four have disappeared since 2009.

Given the gravity of the situation, the Mexican government established a Mechanism to Protect Human Rights Defenders and Journalists in 2012. Four years later, the Mechanism is currently providing [protections for 507](#) defenders and journalists. According to the Protection Mechanism’s statistics, a government authority is identified as the probable aggressor in [36 percent](#) of its cases.

FUTURE U.S.- MEXICO RELATIONS SHOULD PRIORITIZE THE RULE OF LAW

Mexican president Peña Nieto begins his fifth year in office with much uncertainty about the future of U.S.- Mexico relations. During his [campaign](#), U.S. president-elect Donald Trump’s comments related to Mexico were focused on building a wall at the border, ending or renegotiating the North America Free Trade Agreement (NAFTA), and making disparaging remarks about immigrants, particularly Mexicans. Peña Nieto has sought to reach out to the president-elect, both during the campaign and in this transition period. As the two countries discuss their future priorities, it is critical that strengthening the rule of law and human rights be key aspects of the bilateral relationship.

Strong rule of law is not only important to combat crime, corruption, and human rights violations; it is also an essential component to an effective economic policy. In [Standard and Poor’s](#) August 2016 announcement that Mexico is at risk of a credit rating cut, the company mentioned that the benefits of Peña Nieto’s economic reforms have been “limited by weaknesses in governance and perceptions of corruption.”

Strong rule of law in Mexico is also a priority for the U.S. Congress. In August 2016, [69 members](#) of the House of Representatives encouraged the State Department to “raise with Mexican authorities the importance of respecting human rights, completing competent investigations, and bringing to justice those who violate human rights.” In October 2016, a [bipartisan group](#) of nine Senators expressed to the Secretary of State concern about the case of the 43 students as well as the endemic problem of disappearances in Mexico, concluding that “It is imperative that the United States stand in partnership with efforts to ensure justice in these cases and help bring closure to victim’s families.” As [WOLA has noted](#), the State Department’s September 2016 decision to certify that Mexico is making progress on human rights contradicts the reality on the ground and the concerns expressed by members of the U.S. legislative branch.