CMDPDH
Comisión Mexicana de Defensa y Promoción de los Derechos Humanos

Crimes against humanity in the war on drugs in Mexico

Submission to the Office of the High Commissioner for Human Rights from the Mexican Commission for the Defence and Promotion of Human Rights

1. Mexico has an alarming number of murders, acts of torture and enforced disappearances, since the former president Felipe Calderon launched the war on drugs, strategy that has been continued by president Enrique Peña Nieto. This has triggered an escalating violence with an unprecedented number of direct and indirect victims. Hundreds of thousands of civilians have been killed, arbitrarily deprived of liberty, forcible disappeared, and tortured. **These crimes amount to crimes against humanity as there is enough evidence to assert that in some regions of the country those crimes are committed as part of a widespread and systematic attack against the civilian population.**

2. Since 2006, the security policy in Mexico has consisted on the deployment of thousands of military officials and marines to perform public security task and use the military force against criminal organizations.[i] This policy instead of having a legal framework that limited the attributions of military forces, it has enabled the commission of crimes against humanity such as torture, enforced disappearances and murders, by the hands of military forces.[ii]

3. The IACHR has recognized the state security strategy, as a policy to combat the production, distribution and drug use, has increased the illegal and indiscriminate use of force, the recurrent use of torture, and the commission of enforced disappearances and killings.[iii]

4. **Impunity in Mexico is widespread and it is a cause and consequence of the serious crimes committed in the country. There is not only a lack of recognition by the State of the serious crimes that are being committed** but also a policy of obstruction to justice that fails to investigate, prosecute and punish atrocity crimes.[iv] The distrust and the levels of impunity are reflected in the **90 percent of the crimes committed in Mexico are never reported to the authorities**. [v] At the same time, there is strong evidence that suggests that the State has obstructed the investigation, prosecution and punishment of the perpetrators of the crimes, especially when committed by their own public officials.[vi]

5. Another serious consequence of impunity and violence in Mexico is the forced internal displacement. The number of victims of forced internal displacement documented by the CMDPDH since December 2006 amounts to **329,917 people**. The CMDPDH registered

25 episodes of mass forced displacement over the period from January to December 2017. It is highly important to note that the indigenous population was particularly affected by those episodes. This forced internal displacement occurs because civilian population flee to avoid being victims of crime or have already been victims of crimes committed by state actors or criminal organizations.[vii]

6. It has been documented that the **implementation of the war on drugs**, has enabled the **detention of civilians in military bases by the armed forces, where they have been subjected to torture, ill-treatment, enforced disappearances or even killing**.[viii] The official narrative has consisted in broadcasting images where military and police forces combat members of the drug trafficking organizations. However, in the overwhelmingly majority of cases it has been proved that the victims of the lethal force of police and military forces, do not belong to any group of the organized crime but are **civilians**, whom at the moment of detention and torture where falsely accused of having links or being members to drug trafficking organizations..[ix]

7. Several international human rights bodies have recognized that the human rights violations in Mexico are systematic and widespread. For example, the Special Rapporteur on Torture on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, recognized the practice of torture is widespread in Mexico.[x] In addition, the Committed against Enforced Disappearances of the United Nations, expressed that "widespread disappearances have taken place throughout the territory of the State Party".[xi] Additionally, UN Special Rapporteur on extrajudicial, summary or arbitrary executions, former Christof Heyns, expressed his concern for the level of impunity in the country, which he considered "systematic and endemic" and se stated that "impunity of cases of homicide are still widespread in lots of regions". [xii]

a. Militarization of public security

8. Since 2006 to 2017, 540,214 military elements[xiii] from the National Defense Secretariat (SEDENA) and 100,481 navy elements from the Secretariat of the Navy (SEMAR) have been developing security tasks within the framework of the war on drugs. Such has been the magnitude of the intervention of the military in duties that from 2006 to December 2017, **the military carried out 80,259 civilian detentions**.[xiv]

9. It was recently enacted the Internal Security Law (LSI), regulatory framework that legalizes the intervention of military forces in tasks of public security. This Law goes against Mexican constitution, international human rights law as well as recommendations and international and national callings. LSI not only grants attributions to the military, which have to constitutionally fall only under civil jurisdiction, but also allows the military to act independently without civilian controls. LSI not only grants attributions to

the military, which constitutionally fall only under civil jurisdiction, but allows the military to act independently without civilian controls. Its inadequate regulation on the use of force, compromises rights such as life and personal integrity.

b. Killings

11. Since the beginning of the war on drugs, the homicide rate has increased. **2011 and 2017** have been the most dreadful years with **22,852 y 25,339 people killed**, respectively.[xv]

12. On the other hand, until June 2017, the National Human Rights Commission issued 75 recommendations related to killings, identifying SEMAR and SEDENA responsible in 48 cases.[xvi]

13. In June 2014, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, stated in his report on Mexico that during the administration of Calderón 102,696 intentional homicides were reported, of which **70,000 were drug-related killings**.[xvii]

14. The security strategy addressed to combat drug trafficking organizations, the excessive and indiscriminate use of force, added to the crisis of impunity, make that the investigations of killings be rare. **There was only one criminal conviction for every ten cases of homicides from 2007 to 2012.**

a. Enforced Disappearances

15. Within the framework of the war on drugs, enforced disappearance has been a strategy of terror against civilian population committed by members of organized crime and state authorities - by both acting in collusion. To date, there are around **34,656 persons reported as forcible disappeared**.[xviii]

16. Another very worrying problem within this context is the identification of clandestine graves in many regions. Since December 2006 until mid-2017, there were at least 1,610 clandestine graves found with 3,036 bodies and 876 fragments of human bodies in 23 entities of the country.[xix]

17. Impunity for cases of enforced disappearances is so serious that in 10 years, from December 1st 2006 and December 31, 2016 there has been only 11 judgments for this crime on the federal level, and only nine of them have been condemnatory.[xx]

a. Torture

18. In Mexico torture, including sexual violence, is still widespread in the country[xxi] and used as a tool to investigate crimes and obtain confessions and incriminating information.[xxii]

The 95% of the cases of torture are committed within the context of a criminal investigation [xxiii] and constantly remain in total impunity as it is not duly investigated.

19. From December 1, 2006 to October 2017, the General Attorney's Office (PGR) reported 9,355 criminal investigations of torture on the federal level. [xxiv] Nonetheless since December 1, 2006 to October 2017, the judicial institutions registered only 16 condemnatory judgments and 2 acquittals for the crime of torture.[xxv] It is important to highlight that torture in Mexico is mostly committed by military forces, to date, there is only evidence of five criminal convictions for the crime of torture that identify military members.[xxvi]

Conclusions

20. The strategy to fight organized crime within the frame of the war on drugs has had consequently extreme violent incidents that continue to take place at an intolerable level. The deployment of military forces has increased the illegal and indiscriminate use of lethal force, allowing the commission of crimes such as killings, torture and enforced disappearances.

21. The widespread and systematic character of the attack against civilian population through a militarized security policy aimed at combating drug trafficking organizations, meets the requirements to consider that in Mexico crimes against humanity are being committed.

Recommendations

22. Promote an inclusive debate, with participation of UN special procedures, treaty bodies, regional human rights bodies, such as the Interamerican Commission for Human Rights (ICHR) and civil society, about the human rights implications that the war on drugs has had around the world. The conclusions from this panel shall be an important contribution to UNGASS and must be taken into consideration in the General Assembly Special Session.

23. Create a special procedure within the framework of the Human Rights Council that shall have as a mandate the possibility to monitor and supervise that drug policies respect human rights globally.

---

[i] Instituto para la Seguridad y la Democracia, A.C. (INSYDE), CMDPDH, CCDH, Informe sobre el estado del marco normativo y la práctica de la tortura en México (México D.F.: CMDPDH, 2014),consultado el 10

de junio de 2016, 6, http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-informe-sobre-tortura-relator-onu-abril-2014.pdf

[ii] Atrocidades Innegables Confrontando Crímenes De Lesa Humanidad En México, disponible en: https://www.opensocietyfoundations.org/sites/default/files/undeniable-atrocities-esp-2nd-edition.pdf

[iii] Atrocidades Innegables Confrontando Crímenes De Lesa Humanidad En México, disponible en: https://www.opensocietyfoundations.org/sites/default/files/undeniable-atrocities-esp-2nd-edition.pdf

[iv] Atrocidades Innegables Confrontando Crímenes De Lesa Humanidad En México, disponible en: https://www.opensocietyfoundations.org/sites/default/files/undeniable-atrocities-esp-2nd-edition.pdf

[v] Atrocidades Innegables Confrontando Crímenes De Lesa Humanidad En México, disponible en: https://www.opensocietyfoundations.org/sites/default/files/undeniable-atrocities-esp-2nd-edition.pdf

[vi] Derecho a la verdad en México, Alcances y limitaciones en casos de violaciones graves de derechos humano, La defensa del derecho a la verdad cuando se cometen ejecuciones arbitrarias, pagina 69-68

[vii] México: Asesinatos, desapariciones y torturas en Coahuila de Zaragoza constituyen crímenes de lesa humanidad, Comunicación de acuerdo con el artículo 15 del Estatuto de Roma de la Corte Penal Internacional, disponible en: https://www.fidh.org/IMG/pdf/rapport_mexique-ld2-1-2.pdf

[viii] Violaciones graves a derechos humanos en la guerra contra las drogas en México, https://www.cmdpdh.org/publicaciones-pdf/cmdpdh-violaciones-graves-a-ddhh-en-la-guerra-contra-las-drogas-en-mexico.pdf

[ix] Violaciones graves a derechos humanos en la guerra contra las drogas en México, https://www.cmdpdh.org/publicaciones-pdf/cmdpdh-violaciones-graves-a-ddhh-en-la-guerra-contra-las-drogas-en-mexico.pdf

[x] Informe de seguimiento del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes - México, A/HRC/34/54/Add.4, http://www.hchr.org.mx/images/doc_pub/InformeSeguimientoRelatorONUTortura2017.pdf Ver tambien: Conclusiones Preliminares Visita a México del Relator Especial de Naciones Unidas sobre la tortura y otros tratos crueles, inhumanos o degradantes, Juan E. Méndez Abril 21 – Mayo 2 2014. Disponible en: http://www.hchr.org.mx/images/doc_pub/Approved-FinalConclusionesPreliminares_2deMayode2014_VisitaSRTMexico.pdf

[xi] CED. Observaciones finales sobre el informe presentado por México en virtud del artículo 29, párrafo 1, de la Convención, párr. 10.

[xii] Informe del Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, Christof Heyns, A/HRC/26/36/Add.1, http://www.acnur.org/t3/fileadmin/Documentos/BDL/2015/9931.pdf?view=1

[xiii] During the former administration of President Felipe Calderon Hinojosa, from 2006 to 2012, 380,107 military elements from the National Defense Secretariat (SEDENA) were deployed. Whilst during the current administration of President Enrique Peña Nieto, from 2012 to 2017, 212,107 military elements have been deployed.

[xiv] Violaciones graves a derechos humanos en la guerra contra las drogas en México, https://www.cmdpdh.org/publicaciones-pdf/cmdpdh-violaciones-graves-a-ddhh-en-la-guerra-contra-las-drogas-en-mexico.pdf

[xv] Secretariado Ejecutivo del Sistema Nacional de Seguridad Pública (2018) Base de datos de incidencia delictiva.

[xvi] Una misma recomendación de la CNDH puede tener señalada a una o varias autoridades como responsables de los hechos violatorios.

[xvii] Informe del Relator Especial sobre las ejecuciones extrajudiciales, sumarias o arbitrarias, Christof Heyns, A/HRC/26/36/Add.1, http://www.acnur.org/t3/fileadmin/Documentos/BDL/2015/9931.pdf?view=1

[xviii] SEGOB, Registro Nacional de Personas Extraviadas o Desaparecidas, consultable en: http://secretariadoejecutivo. gob.mx/rnped/consulta-publica.php. (30 de mayo de 2016).

[xix] De acuerdo a la información obtenida a partir de solicitudes de información a las procuradurías y fiscalías estatales, así como de las tres fiscalías cuya información fue recuperada del "Informe Especial sobre Desaparición de Personas y Fosas Clandestinas en México". Solicitudes de información a 21 procuradurías y fiscalías estatales. Aguascalientes. Solicitud de información folio: 00164717; Baja

California Solicitud de información folio: 00324317; Baja California Sur Solicitud de información folio: 00204817; Campeche. Solicitud de información folio: 0100270817; Chiapas Solicitud de información folio: 00420817; Chihuahua, Solicitud de información folio: 069642017; Coahuila Solicitud de información folio: 00786317; Colima. Solicitud de información folio: 00249217; Distrito Federal Solicitud de información folio: 0113000213217; Durango. Solicitud de información folio: 00249217; Estado de México. Solicitud de información folio: 0000182873; Guanajuato. Solicitud de información folio: 00911817 y 00911917; Guerrero. Solicitud de información folio: 00328417; Guerrero. Solicitud de información folio: 00476217; Hidalgo. Solicitud de información folio: 00356317 y 00356417; Jalisco. Solicitud de información folio: 02590917; Michoacán Solicitud de información folio: 00462417; Morelos. Solicitud de información folio: 00472317; Nayarit. Solicitud de información folio: 00188817; Nuevo León. Solicitud de información folio: 00801917; Oaxaca. Solicitud de información folio: 00313217; Puebla. Solicitud de información folio: 00407217; Querétaro. Solicitud de información folio: 00235717; Quintana Roo. Solicitud de información folio: 00407617; San Luis Potosí. Solicitud de información folio: 00342417; Sinaloa. Solicitud de información folio: 001269117; Sonora. Solicitud de información folio: 00602617 y 00602517; Tabasco. Solicitud de información folio: 00894117; Tamaulipas. Solicitud de información folio: 00403417; Tlaxcala. Solicitud de información folio: 00275317; Veracruz. Solicitud de información folio: 00807117. Yucatán. Solicitud de información folio: 00482417; Zacatecas, Solicitud de información folio: 00357617

[xx] Comisión Interamericana de Derechos Humanos, "Situación de Derechos Humanos en México"

[xxi] Informe de seguimiento del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes - México, A/HRC/34/54/Add.4, http://www.hchr.org.mx/images/doc_pub/InformeSeguimientoRelatorONUTortura2017.pdf Ver también: Conclusiones Preliminares Visita a México del Relator Especial de Naciones Unidas sobre la tortura y otros tratos crueles, inhumanos o degradantes, Juan E. Méndez Abril 21 – Mayo 2 2014. Disponible en: http://www.hchr.org.mx/images/doc_pub/Approved-FinalConclusionesPreliminares_2deMayode2014_VisitaSRTMexico.pdf

[xxii] Informe de seguimiento del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes - México, A/HRC/34/54/Add.4, http://www.hchr.org.mx/images/doc_pub/InformeSeguimientoRelatorONUTortura2017.pdf

[xxiii] Atrocidades Innegables Confrontando Crímenes De Lesa Humanidad En México, disponible en: https://www.opensocietyfoundations.org/sites/default/files/undeniable-atrocities-esp-2nd-edition.pdf

[xxiv] PGR 0001700312117. Tras el envío de un recurso de revisión (RRA 5618/17) a raíz de la respuesta insuficiente que recibimos a nuestra solicitud (0001700205717) respecto al número de denuncias por el delito de tortura: La COPLADII como canal único de flujo de información estadística institucional informó que sólo contaba con datos estadísticos referentes al número de averiguaciones previas y carpetas de investigación iniciadas por el delito de tortura y no sobre el número estadístico de denuncias. De igual forma, la SEIDF, SCRPPA, SDHPDSC, VG y SEIDO dijeron no haber localizado información alguna sobre el número de denuncias por el delito de tortura.

[xxv] CJF. Solicitud de información folio: 0320000161517.

[xxvi] Sentencias: 27-2013, 7-2013, 34-2013, 175-2012, 92-2003.