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Tlapa, Guerrero  
Mexico City, Mexico  
San José, Costa Rica

**Ms. Dubravka Šimonovic**

United Nations Special Rapporteur on violence against women, its causes and consequences

**Ref: Submission to the UN SRVAW thematic report on rape as a grave and systematic human rights violation and gender-based violence against women. Mexico**

The Miguel Agustín Pro Juárez Human Rights Center (Center Prodh), the Tlachinollan Mountain Human Rights Center (Tlachinollan) the Mexican Commission for the Promotion and Defense on Human Rights (CMDPDH) and the Center for Justice and International Law (CEJIL)<sup>1</sup> respectfully submit the present communication attending your call for information about the state of local legislation and the general situation of rape in the world.

The signatories are all human rights organizations who work for the promotion of human rights both within Mexico and internationally. As such, we have represented victims of sexual violence and excessive use of public force in Mexico both before the Inter-American Commission and Court<sup>2</sup>. In the present document we provide

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<sup>1</sup> Center for Justice and International Law: <https://cejil.org/en>

Center Prodh: <https://centroprodh.org.mx/>

Tlachinollan Mountain Human Rights Center: <http://www.tlachinollan.org/contacto/>

Mexican Commission for the Promotion and Defense on Human Rights <http://cmdpdh.org/>

<sup>2</sup> I/A Court H.R. Case of Fernández Ortega et al. v Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgement of August 30, 2010. Series C No. 215. See also: I/A Court H.R. Case of Rosendo Cantú et al. v Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgement of

general information on the state of rape in the Federal Criminal Code of Mexico -as requested - with emphasis on the issue of rape configured as torture within the relevant legal framework of the country.

This submission is composed of a general overview of sexual violence in Mexico; followed by an analysis of the official provisions regarding rape in the Federal Criminal Code, mentioning other relevant laws; and it concludes with a more detailed examination of rape as a form of torture.

## I. Brief overview of sexual violence in Mexico

Data from the Executive Secretariat of the National Public Security System (SESNSP, by its acronym in Spanish)<sup>3</sup> shows that, in 2019, 51662 complaints of crimes against sexual freedom and security were registered at the state level. Of these, 23191 corresponded to the crime of abuses and 17101 to simple or equivalent rapes<sup>4</sup>, 4206 to sexual harassment complaints, 13 were regarding incest and 5517 were other non-specific crimes. In general, compared to 2018, these figures are equivalent to around a 20% increase<sup>5</sup>. Of which sexual harassment increased by 52.5% and rape, pooling both simple and equivalent, by 11%<sup>6</sup>.

From a broader perspective, the National Urban Public Safety Survey found that three out of every ten women over 18 years of age suffered some form of sexual violence (sexual harassment, sexual abuse, attempted rape and rape) in the second semester of 2019<sup>7</sup>. A comparison of this survey data with the information tabulated by the SESNSP shows that over six million women were victims of these crimes during the aforementioned time period, and that, dramatically, 99.7% of the cases were not reported to the authorities<sup>8</sup>.

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August 31, 2010. Series C No. 2016; I/A Court H.R. Case of Women Victims of Sexual Torture in Atenco v Mexico. Preliminary Objection, Merits, Reparations and Costs. Judgement of November 28, 2018. Series C. No. 371; I/A Commission on Human Rights. Case of Ana, Beatriz, and Celia González Pérez v. Mexico. Inform N° 53/01. Case 11.565. Published on April 4<sup>th</sup>, 2001.

<sup>3</sup> Executive Secretariat of the National Public Security System. Incidencia delictiva del fuero común. Nueva metodología. Published on April 20, 2020. Available at: <https://www.gob.mx/sesnsp/acciones-y-programas/incidencia-delictiva-del-fuero-comun-nueva-metodologia?state=published>

<sup>4</sup> Detailed further in the following section.

<sup>5</sup> Op Cit., Incidencia delictiva del fuero común.

<sup>6</sup> Ibid.

<sup>7</sup> National Institute for Statistics and Geography. National Urban Public Safety Survey for the fourth quarter of 2019. Published in January 2020. Available at: [https://www.inegi.org.mx/contenidos/programas/ensu/doc/ensu2019\\_diciembre\\_presentacion\\_ejecutiva.pdf](https://www.inegi.org.mx/contenidos/programas/ensu/doc/ensu2019_diciembre_presentacion_ejecutiva.pdf)

<sup>8</sup> México Evalúa. Impunidad rampante: 99% de las violaciones no se atienden. Published on January 21, 2020. Available at: <https://www.mexicoevalua.org/violencia-contra-la-mujer-los-datos-gritan-denuncia/>

## II. Rape in criminal law: the example of the Federal Criminal Code

### A. Definition of rape.

Mexico has both federal criminal legislation and 32 state-level criminal codes, each of which defines crimes and establishes punishments in terms that can differ<sup>9</sup>. For the purposes of this submission, we will focus on the example of the definition of rape in the Federal Criminal Code. However, it is important to note that the vast majority of rape victims in Mexico would fall under the various state definitions of rape<sup>10</sup>.

Regarding rape, the Federal Criminal Code makes this crime punishable by eight to twenty years of prison and states that “the crime of rape is committed by anyone who by means of physical or moral force carries out copulation with a person of either sex”<sup>11</sup>. For the purposes of the article, “copulation means the introduction of the male member into the body of the victim by vaginal, anal or oral route, regardless of sex. It will also be considered as rape... when one inserts any item or instrument into the vagina or anus” by means of violence<sup>12</sup>.

In the event that the victim is the offender’s wife or common-law wife, the offence will be prosecuted as the same crime and with the same penalty upon complaint by the victim<sup>13</sup>. Similarly, it will be equated to rape and punished with imprisonment from eight to thirty years, if the rape is committed without violence and the victim<sup>14</sup>:

- is under 15 years of age.
- does not have the capacity to understand the meaning of the action or for any reason cannot resist.
- is under fifteen years of age or does not have the capacity to understand the meaning of the action or for any reason cannot resist, and the offender inserts any item or instrument into the vagina or anus of the victim for sexual purposes.

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<sup>9</sup> National Human Rights Commission. *Tipificación del delito de violación en la legislación penal federal y en las entidades federativas*. Published in 2015. Available at: [https://www.cndh.org.mx/sites/all/doc/programas/mujer/6\\_MonitoreoLegislacion/6.0/13\\_DelitoViolacion\\_2015dic.pdf](https://www.cndh.org.mx/sites/all/doc/programas/mujer/6_MonitoreoLegislacion/6.0/13_DelitoViolacion_2015dic.pdf)

<sup>10</sup> Op. Cit., Impunidad rampante: 99% de las violaciones no se atienden.

<sup>11</sup> Chamber of Deputies of the Congress of the Union. *Federal Criminal Code*. Article 265. Published on August 14, 1931. Latest reform on January, 24, 2020. Available at: [http://www.diputados.gob.mx/LeyesBiblio/pdf/9\\_240120.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/9_240120.pdf)

<sup>12</sup> Ibid.

<sup>13</sup> Op. Cit., Federal Criminal Code. Article 265 Bis.

<sup>14</sup> Op. Cit., Federal Criminal Code. Article 266.

If the foregoing acts are committed with violence, the penalties increase by half<sup>15</sup>.

With the exception of marital/partner rape (cited above), the definition of rape in these articles of the Federal Criminal Code is not based on a particular gender categorization and is written in a neutral manner, considering that these acts can be perpetrated or suffered by both men and women equally. These articles do not refer to the consent or absence of consent, but rather speak of “physical or moral violence”. The Federal Criminal Code does provide as an overarching rule that consent (express, tacit, or presumed) is a cause of exclusion for crimes in general<sup>16</sup>.

A specific reparation considered for victims of rape in the federal criminal law is that, if the rape produces children, the offender must pay alimony for the children and to the “mother” in terms of the civil legislation applicable to divorce<sup>17</sup>. Mexico also has a General Law of Victims that recognizes a victim as a “[n]atural person who has, directly or indirectly, suffered harm or impairment of his or her rights as a result of a violation of human rights or the commission of a crime”<sup>18</sup>. The General Law recognizes victims’ right to complete (integral/multidimensional) reparations and lists a number of specific rights, including “to receive specialized treatment that allows for their physical and psychological rehabilitation in order to achieve their reintegration into society”<sup>19</sup>. As a General Law, this legislation is binding at both the federal and state levels.

#### B. Aggravating and mitigating circumstances.

The penalty for rape in the Federal Criminal Code will be increased by half at its minimum and maximum if committed<sup>20</sup>:

- With the direct intervention of two or more persons.
- By an ascendant against a descendant, the latter against the former, the brother against his or her collateral, the guardian against his or her pupil, or by the stepfather or mother’s partner against the stepchild. In addition to the prison sentence in these cases, the offender will lose parental authority or guardianship, in the cases in which he or she exercises it over the victim.
- By a public employee or in exercise of a profession. In addition to the prison sentence, the employee shall be removed from office or suspended for a term of five years in the exercise of his or her profession.

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<sup>15</sup> Ibid.

<sup>16</sup> Op. Cit., Federal Criminal Code. Article 15. Fraction III.

<sup>17</sup> Op. Cit., Federal Criminal Code. Article 276 Bis.

<sup>18</sup> Chamber of Deputies of the Congress of the Union. *General Law of Victims*. Article 6. Fraction XIX. Published on January 9, 2013. Latest reform on January, 03, 2017. Available at: [http://www.diputados.gob.mx/LeyesBiblio/pdf/LGV\\_030117.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/LGV_030117.pdf)

<sup>19</sup> Op. Cit., General Law of Victims. Article 7. Fraction XXIII.

<sup>20</sup> Op. Cit., Federal Criminal Code. Article 266 Bis.

- By the person who has custody, guardianship, or is in charge of the victim's education, or takes advantage of such trust placed in him or her.
- Having drugged the victim against his or her will or without his or her knowledge.

Apart from these specificities, the Federal Criminal Code does not foresee mitigating circumstances for the purposes of punishment of rape.

### C. Provisions to avoid revictimisation at trial.

The National Code of Criminal Procedures provides for various measures to facilitate, in theory, the participation of victims of sexual crimes in trials while protecting their rights. Among others, it states that “[w]hen different expert reports are to be carried out on persons who have been sexually assaulted [...] an interdisciplinary team with professionals trained in attending to victims should be formed in order to concentrate the interviews required in the same session for the preparation of the respective report”<sup>21</sup>.

Additionally, article 346 of the National Code of Criminal Procedures states that “In cases of crimes against sexual freedom and safety and normal psychosexual development, the judge will exclude evidence that is intended to be submitted concerning the previous or subsequent sexual conduct of the victim”<sup>22</sup>.

### D. War and/or conflict.

Mexico signed the Rome Statute on September 7<sup>th</sup>, 2000 and ratified it on October 28<sup>th</sup>, 2005<sup>23</sup>.

This is relevant in a context, as developed below, where torture used by state agents is common within the frame of a militarized public security strategy, as both military and civil authorities have been reported to the International Criminal Court (ICC) for crimes against humanity<sup>24</sup>.

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<sup>21</sup> Chamber of Deputies of the Congress of the Union. *National Code of Criminal Procedures*. Article 275. Published on March 5, 2014. Latest reform: January 22, 2020. Available on: [http://www.diputados.gob.mx/LeyesBiblio/pdf/CNPP\\_220120.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/CNPP_220120.pdf)

<sup>22</sup> Ibid, National Code of Criminal Procedures. Article 346.

<sup>23</sup> International Criminal Court. Mexico. Signature of the Rome Statute on September 7, 2000. Ratification on October 28, 2005. The procedure for recognition of the jurisdiction of the International Criminal Court is established in Article 21 of the Political Constitution of the United Mexican States.

<sup>24</sup> International Federation for Human Rights. Military and civil authorities reported to the International Criminal Court for crimes against humanity committed in Chihuahua, Mexico. Published on June 11, 2018. Available on: <https://www.fidh.org/en/region/americas/mexico/military-and-civil-authorities-reported-to-the-international-criminal>. See also: CMDPDH. De la estrategia de seguridad a los crímenes de lesa humanidad en México Published in September 2019. Available at:

### III. Configuring rape as sexual torture

In Mexico, rape is a common form of torture used by state agents against women, especially women in custody<sup>25</sup>. Following an official country visit to Mexico in 2014, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment expressed his concern “about the use of sexual violence as a form of torture, mainly against women detainees. Sexual torture includes forced nudity, insults and verbal humiliation, groping of breasts and genitals, insertion of objects in the genitals and repeated rape by multiple individuals.”<sup>26</sup>

The Mexican government’s National Institute for Statistics and Geography conducted a nationwide survey of the imprisoned population in 2016 (“ENPOL 2016”), finding that the percentage of people who reported having been raped by or while in the custody of investigative authorities was almost three times higher among women than among men<sup>27</sup>. Analysis of the ENPOL 2016 data by the World Justice Project shows that, depending on the state where the woman was arrested, up to 38% of women report being raped during arrest<sup>28</sup>.

Consistently, in 2016 Amnesty International analyzed the cases of 100 imprisoned women arrested in different areas of the country, of whom 72 denounced having experienced sexual violence during arrest, and 33 informed that they had been raped during arrest<sup>29</sup>.

Furthermore, Center Prodh thoroughly investigated and wrote a report on 29 out of 110 cases of sexual torture reported to the Center by women from May 2014 to March 2018 ; 16 of these 29 women reported rape, with more than one agent participating in 12 of these cases<sup>30</sup>.

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<http://cmdpdh.org/project/de-la-estrategia-de-seguridad-a-los-crimenes-de-lesa-humanidad-en-mexico/>

<sup>25</sup> Op. Cit., Case of Women Victims of Sexual Torture in Atenco v Mexico.

<sup>26</sup> UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment. Informe del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, Juan E. Méndez – Adición – Misión a México. UN Doc A/HRC/28/68/Add.3, Dec. 29, 2014, para. 28. Available at: [https://ap.ohchr.org/documents/dpage\\_s.aspx?si=A/HRC/28/68/Add.3](https://ap.ohchr.org/documents/dpage_s.aspx?si=A/HRC/28/68/Add.3)

<sup>27</sup> National Institute for Statistics and Geography. National Survey of the Population Deprived of Liberty 2016. Tables, Estimations by Sex and Age, IV. Investigative agents, Table 4.14. Published in 2016. Available on: <https://www.inegi.org.mx/programas/enpol/2016/default.html#Tabulados>.)

<sup>28</sup> World Justice Project. In the Name of Justice: Sexual Torture of Women in Mexico. Published on August 28th, 2018. Available at: <https://www.justiceforall2030.org/name-justice-sexual-torture-women-mexico>

<sup>29</sup> Amnesty International. Surviving Death: Police and Military Torture of Women in Mexico. June 2016, Available at: <https://www.amnesty.org/es/documents/amr41/4237/2016/en/>, p. 20, 22.

<sup>30</sup> Center Prodh. Women with their Heads Held High: Report on Sexual Torture and the Government’s Response in Mexico. November 2018. Available at: <http://centroprodh.org.mx/2018/11/21/mujeres->

In the same way, the CMDPDH has analyzed different case studies that are consistent with a systematic and generalized use of torture throughout the country, including sexual violence<sup>31</sup>. According to its findings, those in high ranking positions are aware of the practice and there are clear patterns followed by the authorities to commit this crime. Amongst them, the repeated use of methods of torture, including sexual torture, the use of military installations and the participation of medical personnel to ensure impunity for those responsible.<sup>32</sup>

Moreover, the CMDPDH also conducted an analysis over the National Commission on Human Rights' recommendations (CNDH, by its acronym in Spanish) regarding cases of sexual violence from 2005 until 2019. As a result, the CMDPDH found various forms of sexual torture: touching and electric shocks to the breasts and genitals, forced nudity, and rape<sup>33</sup>.

Veracruz and Chihuahua are two of the states with the majority of cases registered with 12 recommendations each. During this period, the CNDH enacted 76 recommendations that describe 90 cases of sexual torture, which means that some recommendations describe more than one case. The perpetrators of such crimes are mainly military personnel and include 40 cases the National Defense Secretariat, (SEDENA in Spanish) 23 cases against the Navy Secretariat (SEMAR in Spanish), 14 cases involving the Federal Police, 5 cases against State Police and 1 case involving the National Migration Institute (INM).<sup>34</sup>

Research conducted in two communications to the ICC support the argument of patterns of sexual violence in the context of militarization in Mexico. In some testimonials presented in the Coahuila ICC communication on crimes against humanity committed show that "members of Coahuila's security corporations committed acts of a sexual nature against people deprived of physical liberty, or caused such persons to perform acts of a sexual nature by force, the threat of force or by coercive behavior, using the fear of violence, intimidation, detention, psychological oppression or abuse of power; or by taking advantage of an environment of coercion or the inability of such persons to give their free consent".<sup>35</sup>

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[con-la-frente-en-alto-informe-sobre-la-tortura-sexual-en-mexico-y-la-respuesta-del-estado/](#). p. 45, 102, 107.

<sup>31</sup> Op. Cit., De la estrategia de seguridad a los crímenes de lesa humanidad en México.

<sup>32</sup> *Ibíd.*

<sup>33</sup> This analysis has been made with results of a CMDPDH's database that uses the Investigation and Documentation System (I-DOC) of Case Matrix Network thanks to the support of the European Union and the Ministry of Foreign Affairs of Norway.

<sup>34</sup> *Ibíd.*

<sup>35</sup> International Federation for Human Rights and CMDPDH. México: Asesinatos, desapariciones y torturas en Coahuila de Zaragoza constituyen crímenes de lesa humanidad. Published in May 2016. Available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-comunicacion-coahuila.pdf>

Testimonies of documented cases examined in another communication about crimes against humanity committed in Chihuahua also show a similar pattern in relation to the use of sexual violence: "We were taken to the garrison where we were then kept. They abused us and kept us blindfolded for about five days, they gave us electrical shocks on our private parts"; "they put a broomstick up their anuses and tied them to a tree"<sup>36</sup>

#### A. The General Law on Torture

Criminal codes in Mexico, such as the Federal Criminal Code cited above, include the crime of rape when committed by agents of the state, which may also be considered an aggravating factor. However, they do not consider that crime as torture. Instead, torture is defined in a separate, General Law (binding at both the federal and state level) enacted in 2017 to prevent, investigate, and punish torture and other cruel, inhuman, or degrading treatment or punishment. The crime of torture is defined in article 24 of the General Law in the following terms:

Article 24.- The crime of torture is committed by the state agent who, with the aim of obtaining information or a confession, for criminal investigation purposes, as a form of intimidation, as a personal punishment, as a form of coercion, as a preventive measure, or for discriminatory reasons, or for any other purpose:

- I. Causes pain or suffering, physical or mental, to a person;
- II. Commits an act that tends to or is capable of diminishing or obliterating the victim's personality or his or her physical or mental capacity, although it does not cause pain or suffering; or
- III. Conducts medical or scientific procedures on a person without his or her consent or without the consent of the person with legal standing to give it<sup>37</sup>.

Under the same law, a non-state agent can be guilty of torture if he or she "with the authorization, support, or acquiescence of a state agent commits one of the acts described" in article 24, or if he or she "with any level of authorship or participation, intervenes in the commission" of such conduct<sup>38</sup>.

The General Law establishes that torture shall be punished with 10 to 20 years of prison if the perpetrator is a state agent, and 6 to 12 years of prison for other

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<sup>36</sup> Ibid.

<sup>37</sup> Chamber of Deputies of the Congress of Union. General Law to Prevent, Investigate, and Punish Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Published on June 26, 2017 and in force since June 27, 2017. Available on: [http://www.diputados.gob.mx/LeyesBiblio/pdf/LGPIST\\_260617.pdf](http://www.diputados.gob.mx/LeyesBiblio/pdf/LGPIST_260617.pdf).

<sup>38</sup> Ibid, Article 25.



perpetrators, in addition to fines and, in the case of state agents, a period of suspension from working for the government in any capacity<sup>39</sup>.

Regarding aggravating circumstances, the General Law establishes that the penalties for torture shall be increased 50% when the victim is a child, a pregnant woman, when any form of sexual violence is used, and when the gender identity or sexual orientation of the victim is the motive for committing torture<sup>40</sup>. The penalties may be reduced by a third if the perpetrators cooperate with authorities in the investigation, as long as they are not repeat offenders and they guarantee reparations for the victims<sup>41</sup>. Thus, if prosecuted as torture, the penalty for rape or for any other form of sexual torture could be between 15 and 30 years in prison.

As pertains to prosecution and reparations, among other provisions, the General Law establishes the creation of specialized torture prosecutors in all states<sup>42</sup>. Furthermore, it states that “victims of the crime of torture have the right to full reparation through measures of restitution, rehabilitation, compensation, satisfaction and measures of non-repetition, in their individual, collective, material, moral and symbolic dimensions”<sup>43</sup>.

#### B. Prosecution of rape as torture

Despite the fact that the General Law defines torture, including sexual torture, in a way that reflects international standards and provides for severe penalties, it hasn't resulted in an effective mechanism for punishing sexual torture of women, or torture in general, because torture cases are almost never duly investigated and brought to court.

In this respect, the Committee Against Torture observed in its 2019 review of Mexico:

The Committee expresses its concern about the serious shortcomings evident in the investigation of acts of torture and ill-treatment in Mexico, and about the persistently high levels of impunity associated with offences of this kind. According to data provided by the delegation, as at January 2019 the [federal] Prosecutor General's Office had 4,296 preliminary inquiries [investigations in the old criminal justice system] under way and had opened 645 case files [investigations in the new criminal justice system] in connection with offences of torture. However, the Committee regrets that it has not received comprehensive information on the number of cases that have resulted in criminal proceedings [...] [T]here were 3,214 [state-level]

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<sup>39</sup> Ibid, Article 26.

<sup>40</sup> Ibid, Article 27.

<sup>41</sup> Ibid, Article 28.

<sup>42</sup> Ibid, Article 33 and 35.

<sup>43</sup> Ibid, Article 93.

complaints of torture and ill-treatment in 2016 alone but only 8 of them resulted in criminal proceedings<sup>44</sup>.

In the same line, during the aforementioned visit to the country, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment stated that “[f]ew of these cases have been investigated or punished [...] and they present particular challenges for victims, who are often revictimised when they file complaints or undergo medical examinations”<sup>45</sup>.

The levels of impunity are obvious considering that between 2010 and 2015 only four marines were removed from service and no single soldier<sup>46</sup>. The mechanisms established both by law and adopted executively have been insufficient to change this reality, or even to comply with the requirements of the General Law. For example, most of the Special Prosecutors mandated by the General Law have not yet been created at the state level<sup>47</sup>.

In the same sense, the Mechanism to Follow up on Cases of Sexual Torture of Women, created by the State in 2015 as a result of a commitment made in a public hearing before the Inter-American Commission on Human Rights<sup>48</sup>, has lacked minimum resources to do its work. Consequently, in its merits and reparations decision in the Case of Women Victims of Sexual Torture in Atenco rendered in 2018, the Inter-American Court ordered the Mexican State to strengthen it<sup>49</sup>.

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<sup>44</sup> UN CAT. Concluding observations on the seventh periodic report of Mexico. UN Doc CAT/C/MEX/CO/7. July 24, 2019. Para. 24. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/MEX/CO/7&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/MEX/CO/7&Lang=En)

<sup>45</sup> Op cit., Informe del Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes, Juan E. Méndez – Adición – Misión a México.

<sup>46</sup> Amnesty International. Sobrevivir a la muerte: Tortura de mujeres por policías y fuerzas armadas en México. Published on July 27th, 2016. Available at: <https://www.amnesty.org/es/documents/amr41/4237/2016/es/>. See also: Center Prodh, Mexican Commission for the Promotion and Defense on Human Rights, Tlachinollan Mountain Human Rights Center and Asociadas por lo Justo (JASS). Tortura Sexual en México: Contexto, prácticas e impactos. Published on December 9th, 2015). Available at: <https://centroprodh.org.mx/rompiendoelsilencio/2015/12/tortura-sexual-en-mexico-contexto-practicas-e-impactos/>

<sup>47</sup> La Voz de Michoacán. “De 32 estados, sólo 10 entidades han creado su fiscalía antitortura.” Published on January 19, 2020. Available at: <https://www.lavozdemichoacan.com.mx/pais/lineamiento/de-32-estados-solo-10-entidades-han-creado-su-fiscalia-antitortura/>

<sup>48</sup> IACHR. Allegations of sexual torture against women in Mexico. Public hearing of the IACHR on the 154th session. Available at: <https://www.youtube.com/watch?v=yllxpWZrvD0>

<sup>49</sup> I/A Court H.R. Case of Women Victims of Sexual Torture in Atenco V. Mexico Preliminary objection, merits, reparations and costs. Judgment of November 28, 2018. Series C No. 371, para. 360.

Furthermore, the CMDPDH has identified that one of the main challenges in terms of prosecution of sexual violence is the way in which Istanbul Protocols are conducted<sup>50</sup>. When applied, they tend to be conducted independently and without a gender perspective. This has resulted in their repeated rejection to the detriment of victims' right to access to justice<sup>51</sup>.

Between 2015 and 2017, the General Coordination of Expert Services confirmed that it had only applied two Istanbul Protocols under the request of the Agent of the Public Prosecutor's Office of the Attorney General's Office of Military Justice. Both Protocols produced negative results and were finalised and delivered in June 2017 to the requesting authority. Additionally, the institution revealed that eight applications of the Protocol requested by the Military Judges of Mexico City are pending of resolution<sup>52</sup>.

This data demonstrates that the application of the Istanbul Protocol was requested in only 10 out of nearly two thousand investigations conducted in the period of analysis. In other words, only 0.9% of the Specialized Medical Psychological Reports were made for Cases of Possible Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>53</sup>

There are several cases that show the impunity of sexual torture in Mexico. One of them is the case of Miriam Isaura López Vargas, a victim of sexual torture at the hands of the armed forces in 2011. To date, she has not received justice due to procedural delays, despite the presentation of sufficient evidence against her perpetrator.<sup>54</sup>

It is also revealing to raise the case of Hermanas Gonzalez Perez<sup>55</sup>. They were subject to rape and sexual torture in 1994. Even though her case was brought to the I/ACHR which declared the international responsibility of the State in 2001, the State has not prosecuted and punished the perpetrators<sup>56</sup>.

Veronica Razo Casales is another victim that has not received justice<sup>57</sup>. She was subject to sexual torture by police officers during her detention in 2011 and has been

<sup>50</sup> The Attorney General of the Republic. Request of information No: 0001700219617. Date of answer: 05 de September 5<sup>th</sup>, 2017. See more: CMDPDH. Shadow report before the UNCAT. Published in 2019. Available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-informe-uncat-2019.pdf>

<sup>51</sup> CMDPDH. Shadow report to the CEDAW Committee. Published in 2018. Available at: <http://www.cmdpdh.org/publicaciones-pdf/cmdpdh-contribucion-al-comite-sobre-la-eliminacion-de-todas-las-formas-de-discriminacion-contra-la-mujer-2018.pdf>

<sup>52</sup> Op. Cit., Request of information No: 0001700219617.

<sup>53</sup> Ibid.

<sup>54</sup> Op. Cit., Shadow report to the CEDAW Committee.

<sup>55</sup> Op. Cit., Case of Ana, Beatriz, and Celia González Pérez v. Mexico.

<sup>56</sup> Op. Cit., Shadow report to the CEDAW Committee

<sup>57</sup> Ibid.

in preventive detention since then<sup>58</sup>. As a consequence of years of prosecutions and with positive Istanbul Protocols by PGR medical experts in August 2017, the judiciary enacted an arrest warrant against one of the perpetrators. However, the arrest warrant continues without being executed and the presumably perpetrator is fugitive from justice.<sup>59</sup>

Currently, there is only one known case in which state agents have been punished for rape and sexual torture of women. This is the case of Valentina Rosendo Cantú, an indigenous woman sexually tortured by the Mexican army, whose case was decided by the Inter-American Court. In 2018 (16 years after the facts), a conviction was issued against her attackers, in which the rape committed by state agents is recognized (for the first time) as torture<sup>60</sup>.

Sincerely,

Miguel Agustín Pro Juárez Human Rights Center (Center Prodh)

Tlachinollan Mountain Human Rights Center (Tlachinollan)

Mexican Commission for the Promotion and Defense on Human Rights  
([incidencia@cmdpdh.org](mailto:incidencia@cmdpdh.org))

Center for Justice and International Law (CEJIL) [meso.notificaciones@cejil.org](mailto:meso.notificaciones@cejil.org)

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<sup>58</sup> Center Prodh. Verónica Razo Casales. Consulted on May 5<sup>th</sup>. 2020. Available on: <https://centroprodh.org.mx/rompiendoelsilencio/2014/06/veronica-razo-casales/>

<sup>59</sup> Op. Cit., Shadow report to the CEDAW Committee

<sup>60</sup> Tlachinollan Mountain Human Rights Center. “Nuestras batallas como mujeres son para construir un mundo sin víctimas”. Published on July, 18, 2018. Available at: <http://www.tlachinollan.org/comunicado-nuestras-batallas-como-mujeres-son-para-construir-un-mundo-sin-victimas/>