



## Executive Summary





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July 2021

The World Organisation Against Torture (OMCT) and the National Network of Civil Human Rights Organisations "All Rights for All" (Red TDT), with the support of various organizations engaged in the 2019 review of the Committee against Torture (CAT)<sup>1</sup>, conducted a Virtual Follow up Mission<sup>2</sup>, due to the COVID-19 related restrictions, between 4 and 11 February 2021.

## Institutional shortcomings persist

According to figures and investigations by public bodies and civil society, in the first 18 months of the current six-year term, the Attorney General's Office (FGR) received 522 new complaints of possible acts of torture against federal agents which, added to those already existing in previous years, raised the number of open cases to more than 1,259, of which only three were sent before a judge and only in one case a conviction was obtained; in the local jurisdiction, almost 4,000 investigations were opened in 2018 alone, but in only 2 cases criminal charges for torture were pressed<sup>3</sup>.

These figures should be analysed against a backdrop of **deepening militarisation** in the country. On 11 May 2020, a presidential decree was issued expanding the role of the armed forces in public security until 27 March 2024. Furthermore, the National Guard (GN) remains a militarised security force, under the command of the Ministry of National Defence (SEDENA), with military leadership and composition, contrary to the CAT's concluding observations.

During the meetings held in the course of the mission, civil society organisations and victims' groups, as well as representatives of various public agencies, referred to the **alar-ming lack of articulation that exists at the inter-institutional level**, as well as between the federal and local spheres.

The main institution singled out for its silence and lack of cooperation is the Attorney General's Office, which appears to be a bottleneck for many of the problems currently observed, including: the lack of response to requests from other institutions, the presentation of regressive and disarticulating reform initiatives, the lack of involvement and implementation of instruments and measures foreseen in the General Law to Prevent, Investigate and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (LGT), as well as the multiple deficiencies that characterise the investigation of cases. At the local level, this

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<sup>1</sup> Following which the Concluding Observations on the Seventh Periodic Report of Mexico were issued. (CAT/C/MEX/7).

<sup>2</sup> For more information on the composition and meetings held by the mission, see the full report.

<sup>3</sup> See intervention by civil society and representatives of the Mexican State at the hearing before the IACHR, December 4, 2020, available at: [https://www.facebook.com/watch/live/?v=821229925367532&ref=watch\\_permalink](https://www.facebook.com/watch/live/?v=821229925367532&ref=watch_permalink)



situation of disarticulation is aggravated to very worrying levels by the institutional lag and resistance that exists in many states with respect to the implementation of the anti-torture law and the commitment to the prevention and eradication of torture, encompassing not only the state prosecutors' offices but also the local ombudsmen's offices, human rights commissions and state commissions for the attention of victims.

The National Programme to Prevent and Sanction Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment remains unpublished and essential components of the General Anti-Torture Law have not been implemented

The **National Programme to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Programa Nacional para Prevenir y Sancionar la Tortura y Otros Tratos o Penas Crueles Inhumanos o Degradantes)** is considered a **key element** to provide coherence, coordination and resources to the relevant institutions. However, the drafting of this instrument, initially designed with the participation of civil society organisations and the support of the Office in Mexico of the United Nations High Commissioner for Human Rights (OHCHR), is still at a standstill. The final draft is reportedly being reviewed by the Ministry of Finance and Public Credit (SHCP). The failure to publish the National Programme constitutes a serious breach of the LGT - according to its art. 70 - as well as of the CAT's recommendation on the matter (paragraph 13).

Another breach of the LGT, in particular its article 50 (exclusionary rule), and the 2019 concluding observations of the CAT (paragraph 21) is that the judiciary continues to admit unlawful evidence arguing that the victim has not proved torture, inverting the burden of proof. Victims must present, at least, a medico-legal report that incontrovertibly points to the existence of torture. The deeply rooted practice happens in a context of multiple complaints about the lack of independence, impartiality and rigour detected in the reports made by official experts, which continue to discredit or minimise, and therefore cover up, acts of torture and other ill-treatment<sup>4</sup>.

### Invisible and criminalised torture victims in a context of increased vulnerability due to the COVID-19 pandemic

During the mission, information was gathered on the increase in human rights violations committed against individuals and groups in a situation of pre-existing vulnerability. It should be noted that the pandemic forced many institutions to paralyse their functions and/or limit their work to actions considered essential, which has meant that many legal and support processes have been suspended, with no clarity as to when they can be resumed, further delaying already

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<sup>4</sup> For more information, see: <https://www.omct.org/es/recursos/reportes/m%C3%A9xico-encubriendo-la-tortura-complicidad-de-los-fon-ses-de-la-procuradur%C3%ADa-general-de-la-rep%C3%BAblica>



lengthy and inefficient processes of access to protection, justice and reparation measures. The digital divide that exists in many areas of the country should also be highlighted.

Regarding the treatment received by survivors and relatives of torture and other ill-treatment by the staff of public institutions, this continues to be characterised by a lack of empathy and, in many cases, is even marked by **stigmatising and criminalising** actions, exacerbating their situation of vulnerability and revictimization. The main concerns and complaints of civil organisations and the victims themselves refer to the multiple deficiencies of the **federal Executive Commission and the State Commissions for Victim Attention, which do not have the human, material and economic resources** to deal with the magnitude of the violations committed in the different entities.

## Impact of the COVID-19 pandemic on groups in a situation of vulnerability

### Persons deprived of liberty

In April 2021, 215,232 people were deprived of their liberty, of whom the organization Documenta, through its Prison Observatory, reported that around 3,380 had been infected with Covid-19 and 255 had died. Overcrowding and the lack of measures to mitigate the risk of transmission and guarantee the right to health have increased the urgency to decongest prisons and guarantee adequate conditions of detention. Despite this, measures such as the **Amnesty Law**, approved precisely to reduce overcrowding and protect the most vulnerable people, as well as the substitution of prison sentences or pre-release, provided for in existing laws, have not resulted in a reduction of the prison population.

In fact, **the prison population increased significantly in 2020 - by more than 14,000 people - due, among other reasons, to the abusive use of pre-trial detention**<sup>5</sup>. Also of concern is the **lack of public information** on the real number of infections and deaths due to Covid-19, the protocols and hygiene, prevention and care measures adopted, as well as the opacity in which several penitentiary centres have been closed in the last year and the situation of Private Reinsertion Centres.

The current health crisis has also led to the restriction and, in many cases, **suspension of visits**, without **alternative measures** having been established in the various prisons in the country to guarantee communication between inmates and their families. Likewise, many prisons have limited the possibility of bringing in basic supplies and even medicines that are not accessible inside the prisons.

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<sup>5</sup> To obtain further details, see: <https://observatorio-de-prisiones.documenta.org.mx/>; Angel, Arturo (2020) Población en cárceles crece a ritmo récord en 2020: hay 14 mil reos más que al inicio del año. *Animal Político*. 15 December 2020. Available in: <https://www.animalpolitico.com/2020/12/poblacion-carceles-crece-record-2020/>





## People in a context of mobility

Regarding the situation of people in a context of mobility, during the mission information was received on the systematic lack of attention to the **basic needs of migrants and asylum seekers**, a situation that has worsened in the context of the pandemic. Various local organisations have been able to confirm that migration stations continue to fill up, leading to further overcrowding, lack of hygiene, adequate food and medical care (including emergency care).

They have also denounced the increasing securitisation of borders and migration controls, as well as the recurrent use of force, acts of intimidation, repression and aggression in holding centers, in the corridors, as well as in the caravans of migrants entering the country.

## Forced displacement

During the virtual mission, information was also received **on recurrent violations of the human rights of persons affected by situations of forced internal displacement**, which, separately and together, may entail violations of the right to be free from torture and other ill-treatment. Displaced persons are forced to leave their homes and land, as well as their networks and practices, and live in conditions that violate their dignity and endanger their lives and personal integrity, situation which has been aggravated by the current health emergency<sup>6</sup>.

## Excessive use of force in the context of protests and surveillance of health measures

During the mission, **an increase in repression and abusive actions by security forces were also observed in the context of compliance with pandemic-related restrictions** (curfews, mandatory use of masks, restrictions on movement, etc.), as well as in the context of protest actions in various regions of the country<sup>7</sup>. In many incidents, demonstrators were arbitrarily detained, held incommunicado and subjected to torture (including torture). In multiple incidents, it was recorded that protesters were arbitrarily detained, held incommunicado and subjected to torture (including sexual torture) and other ill-treatment.

In Jalisco, for example, the protests called in June 2020, derived from the outrage caused by the torture and execution of a young man who had been violently detained "for not wearing masks" in May, were characterized by brutal repression, arbitrary detentions of

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<sup>6</sup> For more information, consult: Red TDT (2020) Misión Civil de Observación a Chiapas denuncia una situación sistemática y estructural de violaciones a derechos humanos (press release in Spanish), December 10, 2021. Available at: <https://redtdt.org.mx/mco-a-chiapas-comunicado-de-prensa/>; Centro de Derechos Humanos Fray Bartolomé de las Casas (2020) Romper el miedo. Análisis sobre impactos y consecuencias de la tortura a víctimas y sobrevivientes indígenas en Chiapas. Available at: [https://frayba.org.mx/wp-content/uploads/2020/06/informe\\_tortura\\_final.pdf](https://frayba.org.mx/wp-content/uploads/2020/06/informe_tortura_final.pdf)

<sup>7</sup> For further details on the precarious situation and human rights violations of migrants, see: Grupo de Trabajo sobre Política Migratoria et al. (2020) Informe de Hallazgos de la Misión de Observación de Derechos Humanos en la Frontera Sur de México, agosto-septiembre 2020. Available in: <https://gtpm.mx/wp-content/uploads/2020/12/Informe-Final-MODH-2020.pdf>



dozens of protesters, many of whom, in addition to being subjected to unfair trials and deprived of all safeguards, were forcibly disappeared, tortured and then released in remote locations. During the March 8, 2021 demonstrations, especially in Mexico City, police forces used tear gas and fire extinguishers, threw iron debris and stones, used rifles to shoot paintballs, and there are records of hand grenades and incendiary devices that when falling and ignited released an irritating substance, as well as multiple reports of assaults, acts of humiliation and sexual violence by the police.

In 2020, the **murder of at least 6 journalists and 24 human rights defenders was documented**, a situation that particularly impacts the states, whose local prosecutors' offices lack resources, infrastructure and will to investigate and implement the necessary actions, perpetuating the risk and lack of security guarantees for defenders and journalists<sup>8</sup>. This context, in turn, has come up against a weakening of protection policies and protocols; the Fund for the Protection of Human Rights Defenders and Journalists is among the instruments extinguished in 2020 as a result of the "austerity measures" implemented by the federal government.

## Conclusions and recommendations

The international delegation that integrated the virtual mission to follow up on the implementation of the CAT recommendations has been able to conclude that there have been significant steps at the legal and institutional dimensions at the federal level, however, torture and impunity persist and have deepened with the arrival of the Covid-19 pandemic. In this regard, cross-cutting actions identified as priority and urgent to make significant and lasting progress in complying with the 2019 concluding observations of the Committee Against Torture include:



Adopt, approve and publish, without further delay and with prior consultation with civil organizations involved in the process, the National Program for the Prevention and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;



To take measures for the recognition, protection, access to justice and integral reparation of torture victims, strengthening with economic and technical resources the existing mechanisms and institutions, particularly those oriented to the attention of victims and the Specialized Prosecutor's Offices;



That the Specialized Prosecutor's Offices develop comprehensive plans for the criminal prosecution of torture that allow progress in the collection of evidence, investigation and prosecution of pending cases, taking into account the different contexts of torture (by region, institution involved, category of victim, etc.);

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<sup>8</sup> In the state of Oaxaca alone, from 2017 to 2021, 25 murders of defenders and journalists were documented, 8 after Mexico's evaluation before the CAT. The State Attorney General's Office, however, does not investigate or apply the corresponding protocols to these cases; from 2017 to 2019 only 1 investigation folder was opened for 1 homicide of a journalist.



Guarantee the life and health of all persons in the context of the health emergency resulting from the Covid-19 pandemic, ensuring that the laws and practices adopted in this context comply with international human rights standards and do not increase arbitrariness and abuses; as well as applying the guidelines issued by international organizations to mitigate exposure to the virus and guarantee dignified detention conditions for all persons deprived of liberty, favoring the adoption of alternative measures to deprivation of liberty and early releases in accordance with procedural laws and the Amnesty Law.