

**Americas Policy Group submission to Global Affairs Canada  
ahead of the 2021 Bilateral Canada-Mexico Human Rights Dialogue**

**Presented in November 2021**

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## Introduction

On September 23, 2021, the Americas Policy Group<sup>1</sup> convened a Round Table to enable six Mexican human rights defenders representing respected partner organizations to share with Global Affairs Canada important information about the human rights situation in Mexico, together with their recommendations for Canadian engagement with Mexico.

This brief follows up on the Round Table, providing additional information and recommendations about priority issues for member organizations of the Americas Policy Group as input to Global Affairs Canada ahead of the 2021 Bilateral Canada-Mexico Human Rights Dialogue. This submission aims to continue the constructive engagement we have had with GAC since the creation of the annual Bilateral Dialogue, contributing input from Canadian civil society organizations who work with Mexican counterparts working on the front lines of the human rights crisis.<sup>2</sup>

We recognize that the government of President Andrés Manuel López Obrador is confronting colossal challenges inherited from previous administrations and has raised hopes via a number of important advances. They include, amongst others, a Presidential Commission for Truth and Justice to coordinate efforts around the emblematic case of the 43 disappeared students from Ayotzinapa, progress by the National Prosecutor's Office with regard to the investigation of this case, creation of the Extraordinary Mechanism for Forensic Identification, progress implementing the disappearances law passed in 2017, ratification of the Regional Agreement on Access to Information, Public Participation and Justice on Environmental Matters in Latin America and the Caribbean (the Escazú Agreement), and advances with regards to labour rights.

Nevertheless, Mexican human rights defenders have shared with us their disappointments about lack of progress with regards to other important issues, as detailed below. Indeed, there is abundant evidence of an ongoing, acute human rights crisis in Mexico.

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<sup>1</sup> The Americas Policy Group is an independent coalition of 25 civil society organizations that work with partners in Latin America and the Caribbean for human rights and social and environmental justice. See <https://www.apg-gopa.com/>

<sup>2</sup> Beginning in 2018, member organizations of the Americas Policy Group have contributed each year in consultations with Global Affairs Canada ahead of the Canada Mexico Human Rights Dialogue. We have brought input from our Mexican partners to these conversations and organized Round Tables to enable Global Affairs Canada to hear directly from Mexican civil society organizations. There was no consultation in 2020 amidst the pandemic.

## Overarching recommendations

The Americas Policy Group calls on Canada to:

- Prioritize action to protect human rights in all of its engagement with Mexico.
- Provide visible support to human rights and other civil society organizations and movements that are courageously lifting their voices to defend rights and justice in Mexico.
- Ensure that promotion of Canadian investments in Mexico does not contribute to human rights violations, and that Canadian companies do not exacerbate or profit from human rights violations.
- Ensure that Canadian mining companies accused of human rights abuses, environmental harm and displacement in Mexico are investigated and that those responsible for such acts are held accountable.
- Carry the analysis and recommendations in this brief forward into the Bilateral Canada-Mexico Human Rights Dialogue and ongoing diplomacy with Mexico.

## Diagnostic and recommendations by priority issues

### Human rights dialogue and consultation framework

The Canada-Mexico human rights dialogue has been carried out over the last several years in an asymmetrical fashion. The Canadian government has solicited input from Canadian civil society organizations by meeting with representatives of the CCIC Americas Policy Group and other stakeholders before the dialogue, and by debriefing them afterwards. It has also met with various Mexican civil society organizations to receive their input. In contrast, as far as we know, the Mexican government has not followed the same process and has not consulted with Mexican or Canadian CSOs regarding the concerns and recommendations they would like to see discussed in the governmental human rights dialogue.

We believe that the higher level of commitment of the current Mexican government to respect international and domestic human rights conventions, as well as its better relationship with key domestic human rights advocates, warrants a new approach to the consultation.

We note that the European Union (EU) guidelines on human rights dialogues with third countries include a much more substantial inclusion of civil society actors:

*“Civil society could become involved under the most suitable arrangement in the preliminary assessment of the human rights situation, in the conduct of the dialogue itself (particularly by organizing, in certain cases, seminars with representatives of civil society of the third country and of the European Union in order to discuss specific thematic issues in greater depth in parallel*

*with the formal dialogue), and in following up and assessing the dialogue. The European Union could thus signify its support for defenders of human rights in countries with which it maintains exchanges of this kind.”<sup>3</sup>*

### **Recommendations:**

- The Government of Canada should encourage its Mexican government counterparts to develop a transparent approach to engagement and consultation with CSOs as part of the Canada-Mexico human rights dialogue.
- The Government of Canada should consult with the EU and European CSOs about how the EU carries out in its high-level dialogue on human rights with Mexico to evaluate their best practises that could be adopted in our context. The Americas Policy Group would welcome the opportunity to be part of these conversations.

## **Gender Violence and Femicides**

Shocking levels of extreme violence against women in Mexico continue. Between January 2010 and June 2020, the National Institute of Statistics and Geography (INEGI) reported a total of 31,046 female deaths with presumption of homicide, with the first quarter of 2020 being the period with the highest number: 1,844. In 2020, 3,752 killings of women were reported, of which 969 were investigated as femicides (gender-based murders of women). From 2018 to 2020, the Executive Secretariat of the National Public Security System (SESNSP) reported an increase in the numbers of femicides. Not one state was free of femicides.

Austerity measures proposing funding cuts to centres for Indigenous and Afro-descendent women and to the National Commission to Prevent and Eradicate Violence against Women were abandoned following significant social outcry. The President continued to downplay the issue of violence against women, questioning the validity of calls made to emergency services to report sexual and gender based violence and criticizing women’s protests against femicides.

Investigations into femicides preceded by disappearances are seriously flawed by inaction and negligence on the part of authorities, increasing the likelihood that cases will remain in impunity. This situation has been aggravated by state response to the COVID-19 pandemic.<sup>4</sup> According to Amnesty International’s 2021 report *Justice on Trial*,<sup>5</sup> investigations into femicides preceded by disappearance in the State of Mexico are failing because authorities lose evidence, do not investigate enough and do not correctly apply a gender perspective. In addition, families are re-victimized because they must invest

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<sup>3</sup> EU guidelines on human rights dialogues with third countries

[https://eeas.europa.eu/sites/eeas/files/eu\\_guidelines\\_on\\_human\\_rights\\_dialogues\\_with\\_third\\_countries.pdf](https://eeas.europa.eu/sites/eeas/files/eu_guidelines_on_human_rights_dialogues_with_third_countries.pdf)

<sup>4</sup> See Amnesty International, *Como Anillo al Dedo*, Nov. 2020,

<https://amnistia.org.mx/contenido/index.php/como-anillo-al-dedo/>

<sup>5</sup> Amnesty International, *Justice on Trial: Failures in criminal investigations of femicides preceded by disappearance in the State of Mexico*, 2021 - <https://www.amnesty.org/en/documents/amr41/4556/2021/en/>

time and money investigating cases themselves or putting pressure on the authorities to investigate. They are also re-victimized by frequent threats and harassment from the perpetrators and sometimes also from the authorities. These deficiencies and revictimization hinder the judicial process and increase the likelihood that cases will go unpunished, seriously affecting the families' access to truth, justice and reparations. Failings in the investigation of femicides preceded by disappearance in the State of Mexico is consistent with the findings of a 2003 report by Amnesty International on the killings of women in Ciudad Juárez, which found similar shortcomings, including the mismanagement of crime scenes and evidence, casting doubt on victims and failing to follow up on certain lines of investigation. Femicidal violence and the failings in investigation and prevention are not localized but part of a broad, troubling reality in Mexico.

CONAMI has reported an increase in femicides of Indigenous women and high levels of impunity as authorities fail to properly investigate or view these crimes as femicides. Violence against Indigenous women must be investigated with a differential approach that addresses collective and territorial issues.

There is also a disturbing trend of violence against women who protest violence against women. Despite the fact that they were mostly peaceful, feminist demonstrations and protests against gender-based violence against women have started to be stigmatized as violent. The authorities have responded to these demonstrations, which are protected by the right to peaceful assembly, with excessive and unnecessary use of force, illegal and arbitrary detentions, verbal and physical gender-based abuse against women and sexual violence. Amnesty International's report, *Mexico: The (r)age of women: Stigma and violence against women protesters*<sup>6</sup>, documents how different police forces have infringed on the rights of women and girls, including the rights to peaceful assembly, freedom, personal integrity, freedom from torture and other cruel, inhuman and degrading treatment, and to live a life free of violence.

### **Recommendations:**

The Government of Canada should press its counterparts in the Government of Mexico to:

- Develop and implement public policies aimed at preventing gender-based murders of women (femicides) and improving investigations of said crime throughout the country. These policies should include redoubling efforts to develop a standardized system for the periodic presentation of reports with statistical data on violence against women, including femicides, broken down according to the type of violence and the circumstances in which the violent act was committed, containing information on the perpetrators and victims of such acts and the relationship between them; and carry out exhaustive, independent and impartial investigations into femicides, ensuring that those responsible are brought to justice and that full reparation is provided to the victims and their families.
- Secure resources to face sexual and gender based violence in the country, including women's access to health and justice regardless of the budget cuts that are made in the context

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<sup>6</sup> <https://www.amnesty.org/en/documents/amr41/3724/2021/en/>

of the pandemic. In addition, socio-economic stimulus packages should include special provisions to tackle gender-based violence.

- Ensure special attention to the specific issues faced by Indigenous and Afro-Mexican women, who, especially in the context of the COVID-19 pandemic, face particularly high rates of violence and marginalization.
- Publicly and consistently recognize the legitimacy of feminist demonstrations
- Guarantee that law enforcement officials comply with their obligation to recognize the right to peaceful assembly of women, facilitate their exercise, and use force only when other means are ineffective, in accordance with international standards on the use of force.
- Adopt measures to guarantee accountability by state security forces, which are implemented through the entire political and operational chain of command, in relation to all policing operations carried out, including the exercise of the right to assembly.
- Guarantee the existence of a specialized external mechanism independent of the police forces, in charge of the monitoring, supervision, and improvement of these institutions.
- Accept the recommendations issued by the CEDAW Committee.

## Migration

Since August, authorities in Mexico have been conducting mass detentions and deportations of migrants and asylum seekers without taking measures to ensure that these individuals are not being returned to locations where their lives or physical integrity might be at risk. Asylum seekers and migrants are being deported to countries such as Haiti, Honduras, Guatemala, and El Salvador. Such deportations potentially endanger the lives of thousands. Excessive use of force against migrants and asylum seekers has also been reported, as well as children being held in migratory detention centres in the south of Mexico, against Mexican law and international standards.

The Mexican government announced in September that it would provide refuge for more than 13,000 Haitians, yet it has continued to deport hundreds more.

Mexico continues to deploy National Guard agents at the Mexican border with Guatemala in order to control migration despite the fact that both Mexico's National Human Rights Commission and the UN Committee for the Elimination of Racial Discrimination have emphasized the danger of discriminatory actions by security forces. The action of unconstitutionality filed by the CNDH before the Supreme Court of Justice of the Nation regarding the use of the National Guard to control migration is still pending.

Since the deployment of the National Guard in Mexico in 2019 with the new role of carrying out migration control tasks in collaboration with immigration authorities, Amnesty International has called on the government to avoid using the National Guard in tasks in this area.

Since April 2020, Mexican civil society organizations have presented eight appeals to guarantee the health, life and integrity of migrants in immigration detention centres in six cities of the Republic (Tenosique, Tabasco; Tapachula, Chiapas; Acayucan, Veracruz; Monterrey, Nuevo León; Mexico City and

Tijuana, Baja California). A court in Mexico City determined that all migrants in immigration detention in the country should be released immediately, have access to regular stay under temporary residence and equal access to health and implementation of sanitary measures for the national population. Between January and December 2020, 87,260 detention events were registered in Mexico; of these 21% were women and 79% men. Of the total detention events, 13% were of girls, boys and adolescents.

On November 11, 2020, a decree was published in the Official Gazette of the Federation amending various articles of the Migration Law and the Law on Refugees, Complementary Protection and Political Asylum, in matters of migrant children. These reforms establish that the deprivation of liberty of girls, boys and adolescents for migratory reasons is prohibited.

Despite the current order of the judge, the pandemic and changes in the law, Mexican authorities have continued to detain thousands of migrants, including adolescents and children, without hygiene and distancing conditions, putting their human rights, such as health, at risk.

The Mexican registration platform for adults over 60 years of age to get vaccinated against COVID-19 was enabled on February 2, 2021. The platform, however, asks individuals for a Unique Population Registration Code in order to be vaccinated. In Mexico, many population groups do not have this code, including migrants and asylum seekers, which means they are not able to access the registry and, therefore, to be vaccinated. As of now, no clear procedure has been published to allow the mobile population access to the vaccine.

### **Recommendations:**

The Government of Canada should press its counterparts in the Government of Mexico to:

- Guarantee - without discrimination - access for all migrants and asylum seekers to basic services, care and security, including adequate accommodation, food and health care.
- Guarantee migrants access to COVID-19 vaccination regardless of their immigration status.
- Guarantee that, in the context of COVID-19, no person is placed in immigration detention solely because of their immigration status, and that all people who are in detention for this sole reason are released.
- Suspend, throughout the COVID-19 pandemic, the deportations of people to El Salvador, Honduras, Guatemala, Haiti and any other country where their life or health could be at risk, in compliance with international human rights obligations.
- Adopt measures to guarantee that apprehended and detained migrants in an irregular situation are duly informed of their right to request asylum in Mexico, guaranteeing their effective and unrestricted access to these procedures.
- Repeal the legal provisions that allow the National Guard to carry out tasks related to migration.
- Guarantee the protection of all the rights of migrants and asylum seekers in Mexican territory, as well as those of human rights defenders who keep them safe.



## Disappearances

Enforced disappearances by state agents and disappearances carried out by non-state actors continue with almost total impunity. According to official statistics, more than 92,000 people are now reported missing in Mexico – with more than 20,000 reported missing in the last three years alone. Between 2006 and 2020, 3,978 clandestine graves have been located, of which 1,086 were found in 2020.

Despite the entry into force in 2017 of the General Law on Forced Disappearance of Persons, Disappearances Committed by Individuals and the National Missing Persons System, as of July 28, 2020, 17 federal entities had yet to approve legislation harmonized with the General Law and six had yet to form their specialized prosecutor's office for crimes of disappearance.

According to a report issued in August 2021 by the National Movement for Our Disappeared in Mexico Mexico, Mexico is experiencing a profound forensic crisis with some 52,000 unidentified deceased persons.<sup>7</sup>

Creation of the Extraordinary Forensic Identification Mechanism, an autonomous, interdisciplinary task force, is a welcome step to address the forensic crisis. It is vital that it be provided the necessary resources to fulfill its mandate.

Authorities have also approved the Protocol for the Search for Missing and Unlocated Persons, which will be mandatory for all public servants who participate in the search for disappeared persons in Mexico.

In September 2020, the Mexican Senate recognized the competence of the UN Committee on Enforced Disappearances to consider individual cases. On October 2 of this year, the Ministry of Foreign Relations, through the Permanent Mission of Mexico to the UN, sent the letter signed by President López Obrador to the Treaty Section of the Organization's Office of Legal Affairs.

On April 29, 2021, the Senate approved changes to the new Law of the Attorney General's Office that replaces the existing Organic Law of the Attorney General's Office, despite the concerns expressed by civil society organizations and other international organizations to the reform. According to the information shared with Amnesty International, this legislation would directly affect fundamental parts of the General Law on the Forced Disappearance of Persons, Disappearance Committed by Individuals and the National Missing Persons Search System, with the possible consequence of restricting the rights of victims to truth, justice and reparation.

### Recommendations:

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<sup>7</sup> Movimiento por Nuestros Desaparecidos en México, *La Crisis Forense en México*, <https://movndmx.org/wp-content/uploads/2021/08/Informe-La-Crisis-Forense-en-Me%CC%81xico.pdf>



The Government of Canada should press its counterparts in the Government of Mexico to:

- Implement recommendations made by the UN Committee on Enforced Disappearances, following its visit to Mexico from November 15 to 26.
- Ensure full implementation of the General Law on Disappearances, including implementation of databases.
- Ensure that the FGR and state prosecutors carry out effective coordination for the prompt implementation of the Protocol for the Search of Missing and Unlocated Persons, ensuring a gender perspective.
- Ensure that the Extraordinary Forensic Identification Mechanism has adequate resources, personnel and skills to meet existing needs and fulfill its mandate, with independence and autonomy.
- Carefully evaluate any initiative of law that could have a negative impact on the rights of the victims of disappearances in Mexico, in adequate terms and through a process that includes broad participation of groups of relatives of disappeared persons, accompanying organizations that accompany and academic experts.

## **Ayotzinapa**

At the beginning of his term in 2019, President López Obrador made a series of commitments to the families of the 43 students of the Raúl Isidro Burgos Rural Normal School in Ayotzinapa who were forcibly disappeared in 2014. The government established a special commission and the Prosecutor's Office created a special unit to investigate the case. The president also ordered the resumption of international support for the case.

In July 2020, the Attorney General's Office and the Argentine Forensic Anthropology Team (EAAF) announced that, after analyzing the samples of the remains recovered in the Barranca de la Carnicería, Ejido Cocula, Guerrero State, a match was found between one of the processed bone remains and relatives of Christian Alfonso Rodríguez Telumbre, one of the 43 students and the second student to be identified so far.

Dozens of arrest warrants were issued throughout 2020 for public officials with possible links to the enforced disappearance of the 43 students. Among them was Tomás Zerón, head of criminal investigations in the Federal Attorney General's Office at the time of the disappearances, who was accused of torture, enforced disappearance and tampering with the crime scene. In addition, for the first time in the case, several arrest warrants were issued for members of the military. In addition, the first member of the army was arrested, as well as a marine.

## **Recommendations:**

The Government of Canada should press its counterparts in the Government of Mexico to:

- Ensure that all government agencies, including all security forces, cooperate fully with the Special Investigation and Litigation Unit in the fulfillment of its mandate.
- Guarantee the allocation of sufficient human and financial resources for the Special Investigation and Litigation Unit.
- Recognize and allow the participation in investigations of relatives of disappeared persons, providing them with up-to-date and exact information on the progress made and guaranteeing that they can provide information, suggest lines of inquiry and request evidence.
- Initiate investigations, and if applicable, legal actions, against the persons who committed irregularities and / or human rights violations in the investigation of the case, and ensure that they are brought to justice.

## Labour Rights

For over seventy years, Mexican workers suffered a pervasive deterioration in their working conditions and income. Corrupt labour centrals and employers worked with the past governments to keep workers from exercising their rights, electing their own union leadership, and voting on their collective agreements. Attempts to advance workers' rights and to form democratic and independent trade unions were violently opposed by the corrupt corporatist structure.

A lack of decent wages, unjust work schedules and dire working conditions are directly related to a dearth of independent democratic unions, the complicity of governments and employers that undermine workers' freedom of association and right to collective bargaining, and a lack of viable recourse to address labour-rights violations. Many employers have been able to avoid authentic worker representation through "protection contracts" that formulate terms and conditions of work without workers' knowledge or any prior consultation. The prevalence of "employer protection contracts", where the corporatist unions signed contracts with employers without the knowledge or consent of the workers, represent 80 to 90% of contracts, even today.

Moreover, most union organizations are not autonomous or democratic and do not genuinely represent the interests of their members; so many workers distrust them. The underlying problem is that most Mexican workers are not involved or represented in the negotiation of their wages or terms and conditions of work. Generally, they do not even have copies of their contracts. The lack of independence of government institutions responsible for labour relations and labour justice has exacerbated these problems. Some workers who have attempted to challenge unfair conditions by demanding union democracy or higher wages have been fired, blacklisted, jailed and even murdered.

Over the last two years, the government of President López Obrador has brought important reforms to the labour sector. A number of key reforms to the Federal Labour Legislation were approved in May 2019, as well as the ratification of ILO convention 87 on the Freedom of Association and Protection of the Right to Organize and the signing of ILO convention 189, extending basic labour rights and protection

to domestic workers. Reforms to the Federal Labour Legislation also helped to advance the rights of women to be free from violence and sexual harassment in the workplace.

International events also reinforced Mexico's labour reform agenda as the negotiations of the labour chapter of NAFTA+ (CUSMA) as well as the Annex of Worker Representation in Collective Bargaining in Mexico aimed to lock in commitments for Mexico to strengthen the guarantees for freedom of associations and collective bargaining, with requirements that unions demonstrate worker support through a Certificate of Representation, and that workers vote through a secret ballot to approve collective bargaining agreements prior to their legal registry. Equally important are the creation of independent institutions for registering unions and collective bargaining agreements, as well as new, impartial labour courts to adjudicate disputes.

Notwithstanding this progress, ongoing obstacles include lack of dialogue and information, as well as deliberate attempts by corrupt union officials, employers and state governments to try to block the reforms or spread misinformation to confuse and discourage workers from exercising their rights. On November 24, 2020, the Mexican Supreme Court updated the constitutionality of the key provisions of Mexico's 2019 labour reforms, dealing a blow to the aspirations of the employer-friendly unions. But the campaign to discredit the labour reforms continues.

Employment and Social Development Canada (ESDC) has committed substantial funding to support Mexico's labour reforms under CUSMA through sharing knowledge and resources between governments as well as helping Mexican workers build the capacity to effectively exercise their labour rights in collaboration with Canadian counterparts. This support includes education programs that will address gender equality, violence against workers, and occupational health and safety.

### **Recommendations:**

The Government of Canada should press its counterparts in the Government of Mexico to:

- Encourage communications, education and training of workers about the labour reform to enable a new generation of labour activists to exercise their rights to be represented by a union of their choice towards an eventual transition to democratic unionism over the medium and long run.
- Support the implementation of gender provisions within the labour reform that will favour a greater involvement of women in the democratic labour movement, by improving working conditions and salaries, and the protection of women from sexual harassment in the workplace, as well as requiring union executives to have proportional representation based on the gender breakdown in the workforce.
- Promote greater representation of women and other equity groups in the reform process. Today, women represent the majority of workers in large segments of maquila factories in Mexico, particularly in auto-parts, electronics, textiles and garments. The government must work to address the greatest impediments for the participation of women, which include the lack of

childcare provisions and protection from gender-based violence in the workplace, as well as in the home.

## Security and Human Rights

The National Law on the Use of Force, published on May 27, 2019, does not comply with international human rights standards in this area. The law does not establish clearly, nor in accordance with international law, the conditions under which the use of lethal means, including firearms, is allowed. Furthermore, it could appear that it allows the police and other security agents to decide on the possible legitimacy of a demonstration or gathering and that, if they consider it illegitimate, they can use force against those who demonstrate.<sup>8</sup> In 2019, the CNDH presented before the Supreme Court of Justice of the Nation (SCJN) an appeal of unconstitutionality against the Law, which was admitted. Until now, the SCJN has not issued a ruling on this Law.

President López Obrador has maintained the armed forces as the main instrument for promoting public security, despite statements during his campaign that more peaceful and preventative measures would be prioritized. The current government created the National Guard in 2019 through a constitutional reform that states that this institution must have a civilian command with such training. Despite this, the National Guard has been constituted mainly by members of the armed forces, and a former Army General was placed in command, despite the fact that legal norms provide that retired military personnel continue to be military personnel and are subject to military discipline and chain of command.

In 2020, the National Guard was identified as the authority allegedly responsible for committing human rights violations in 550 complaints submitted to the National Human Rights Commission (CNDH). For example, the Centro de Derechos Humanos Fray Bartolomé de Las Casas registered 41 cases of torture in Chiapas between January 2019 and March 2020 involving representatives of the State. Similarly, from January 1, 2006 to December 31, 2019, 674 complaints were filed before the State Human Rights Commission of the State of Chiapas for physical and psychological torture. No convictions had been handed down for these offences.<sup>9</sup>

In addition to the operations of the National Guard, on May 11, 2020, based on an executive decree, the participation of the armed forces in public security tasks was formalized for the remainder of the current administration.<sup>10</sup>

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<sup>8</sup> An amicus curiae presented by Amnesty International before the Supreme Court of Justice on October 3, 2019 includes an analysis of the law; see <https://www.amnesty.org/en/documents/AMR41/0913/2019/en/>

<sup>9</sup> <https://frayba.org.mx/wp-content/uploads/2021/11/UE.pdf>

<sup>10</sup> Diario Oficial de la Federación (2020). AGREEMENT by which the Armed Forces are available to carry out public security tasks in an extraordinary, regulated, supervised, subordinate and complementary manner. [https://www.dof.gob.mx/nota\\_detalle.php?codigo=5593105&fecha=11/05/2020](https://www.dof.gob.mx/nota_detalle.php?codigo=5593105&fecha=11/05/2020)

## Recommendations:

The Government of Canada should press its counterparts in the Government of Mexico to:

- Modify the National Law on the Use of Force so that it complies with international human rights standards and with judgments issued by the Inter-American Court of Human Rights.
- Guarantee that the formation of the National Guard strictly respects the parameters ordered by the Mexican constitution and international law; in particular, that its members are not assigned in any way to the armed forces or have an administrative or disciplinary relationship with them. While the National Guard is made up of members of the armed forces, the government must guarantee that it does not engage in public security tasks except in an exceptional, limited and restricted manner in accordance with international human rights norms and standards on the matter and that it does not participate in the investigation of crimes.
- Ensure adequate internal and external controls to supervise the National Guard, as well as other security forces that perform public security tasks.
- Carry through on Mexico's commitment to end the role of the armed forces in the performance of public security functions through their orderly retirement, while ensuring adequate strengthening, training, and supervision of civilian police forces.
- Take the legal steps necessary to ensure that all complaints of human rights violations and crimes under international law perpetrated by members of the armed forces, regardless of the civil or military character of the victim, are investigated, processed and judged adequately and exclusively by civil judicial authorities.
- Advance towards the eradication of impunity by strengthening independence and human, financial and technical resources of all the actors involved in the investigation of serious human rights violations.

## Indigenous Rights

Forced displacements of Indigenous families and communities continue to occur as a result of threats and violence perpetrated by criminal groups that dispute for control of Indigenous territories for their activities. Faced with this situation, the main state response has been a greater military presence, which has not diminished violence. On the contrary, numerous abuses have been committed with impunity during military operations in Indigenous regions, including sexual violence against Indigenous women and excessive use of force.

There are grave concerns that corporate actors operating within or near territories controlled by criminal groups put the lives of Indigenous peoples in further peril when they refuse to acknowledge the role that criminal groups play in the repression of human rights. Indigenous land defenders opposed to resource extraction may be targeted by criminal groups both for opposing business operations that do not have

their free, prior and informed consent, as well as for exercising their rights to freedom of expression and peaceful social protest.

At the No More Blood in Mexico Round Table, Indigenous rights defender Vidulfo Rosales Sierra of the Tlachinollan Human Rights Centre called for three fundamental guarantees: recognition of the rights of Indigenous peoples with regard to decision-making about their territory, including any concessions or permits to Canadian companies; recognition of the political rights of Indigenous peoples and Indigenous authorities; and recognition of the authority of Indigenous bodies like the Coordinadora Regional de Autoridades Comunitarias to promote public security in their communities, and not be subject to arrest and prosecution.

Indigenous peoples continue to raise serious concerns about the social, environmental and health impacts of resource extraction projects imposed in Indigenous territories for the benefit of transnational companies, including Canadian mining companies that receive promotional support from the Canadian Embassy.<sup>11</sup>

In August 2021, Indigenous communities in San José del Progreso, Ocotlán (Oaxaca) denounced Canadian firm Fortuna Silver Mines, which operates Compañía Minera Cuzcatlán, of exacerbating violence, dividing the community, and contaminating vital sources of water.<sup>12</sup> In Guerrero, a state considered unsafe to travel for Canadians, Canadian mining companies such as Equinox Gold face accusations of mistreatment, polluting local communities' potable water with heavy metals and causing health problems.<sup>13</sup>

Indigenous communities that speak out and resist the militarization of their territories to impose extractive mining projects, with their multiple impacts, face violence, threats, criminalization and killings. This is causing further dispossession and forced displacement from Indigenous communities. As Alberto Xicotencatl Carrasco, Director of the Saltillo Migrant Shelter, said to the No More Blood in Mexico Policy Round Table, many of those traveling to the border in search of safety are fleeing violence and dispossession related to mining projects in their home states in Mexico.

Lack of both human rights guarantees and justice remain the norm. Twelve years after the murder of environmentalist Mariano Abarca in Chiapas, Mexico, there has been no serious investigation into the case by Mexican authorities nor by the Canadian government. On November 8, 2021, Mariano's family

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<sup>11</sup> According to the Embassy of Canada in Mexico, "Canadian companies are the largest foreign investors in Mexico's mining sector; they represent almost 70% of foreign investments in this industry". See Canada in Mexico [@CanEmbMexico], May 5, 2021, <https://twitter.com/CanEmbMexico/status/1390304164597489667?s=20>.

<sup>12</sup> Mexican Network of People Affected by Mining (REMA) (August 24, 2021). "Statement: REMA Joins the Demands of the San Pedro Apóstol Community, Ocotlán, Oaxaca, that Semarnat Not Give in to Lobbying Tactics Promoted by the Environment-Destroying Canadian Mining Company Fortuna Silver Mines". In MiningWatch Canada. <https://miningwatch.ca/news/2021/8/21/statement-rema-joins-demands-san-pedro-ap-stol-community-ocotl-n-oaxaca-semarnat-not>

<sup>13</sup> José Luis Pardo (August 2021). "La riqueza envenenada bajo la tierra de Guerrero". El País <https://elpais.com/mexico/2021-08-12/la-riqueza-envenenada-bajo-la-tierra-de-guerrero.html>

and Canadian supporters made their final petition before the Federal Court of Appeal to investigate the role the Canadian embassy in Mexico may have played in endangering Mariano's life. As the Canadian Federal Court acknowledged in 2019, Mariano might still be alive today had the embassy acted differently<sup>14</sup>. Mariano's family has also filed a petition before the Inter-American Commission on Human Rights against the Mexican State for violations of their right to life and personal integrity, as well as judicial guarantees, amongst others.

In May 2021, the government of President Andrés Manuel López Obrador issued an apology to Indigenous Peoples for the abuses inflicted on them during the Spanish conquest of the Aztec empire. Nevertheless, many Indigenous peoples consider this apology a contradiction as state extractives and development policies, such as mega-hydroelectric dams and the Tren Maya, inflict violence on their bodies and territories and threaten to dispossess them of their lands.

According to *Iniciativa Global en México por los Derechos de los Pueblos Indígenas*, 14 Indigenous rights defenders were killed in the first six months of 2021 while trying to protect Indigenous rights, territories and water.<sup>15</sup> An emblematic example of this is the murder in July, 2021 of Simón Pedro Pérez López. He was a Tsoltzil Indigenous leader who spoke out against violence against Indigenous communities and his organization, la Sociedad Las Abejas de Acteal. This group defends the rights of the Indigenous Maya Tsotsil and Tseltal peoples in the face of militarization of their territories for mega-development projects like the Tren Maya and mega-hydroelectric dams. Simón's murder, like many others, remains in impunity.

### **Recommendations:**

The Government of Canada should press its counterparts in the Government of Mexico to:

- Uphold its obligations to protect the internationally recognized collective rights of Indigenous peoples; in particular the right to self-determination, meaningful consultation and decision-making about their territory, in compliance with the standard of free, prior and informed consent.
- Guarantee collective and culturally appropriate protection and reparation measures for Indigenous and Afro-Mexican peoples and individuals.
- Ensure that all complaints of militarization and human rights violations against Indigenous peoples in order to open their territory for resource extraction are investigated, processed and judged and ensure that victims of violence and their families have access to justice.
- Move forward with proposed constitutional reform to recognize the rights of Indigenous Peoples and Afro-Mexicans, as promised by the 1996 San Andrés Accord.

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<sup>14</sup> Roundtable on the Case of Mariano Abarca, October 5, 2021, <https://www.youtube.com/watch?v=U6VdIcrZIAw>

<sup>15</sup> Sare Frabes (July 8, 2021). "México: 14 indígenas defensor@s de derechos asesinados en 2021". Avispa Midia. <https://avispa.org/mexico-14-indigenas-defensors-de-derechos-asesinados-en-2021/>



- Ensure companies seeking operating permits adhere to the UN Guiding Principles on Business and Human Rights and understand their responsibilities to Indigenous peoples according to the UN Declaration on the Rights of Indigenous peoples.

In addition, we call on Canada to:

- Adopt Human Rights and Environmental Due Diligence Legislation to prevent harms and hold Canadian companies accountable for human rights abuses and environmental damage in other countries, providing access to remedy for affected communities.
- Ensure Embassy and Trade Commission staff in Mexico are trained in and have processes and resources in place to implement the Voices at Risk Guidelines on Supporting Human Rights Defenders; GAC staff at diplomatic missions must have accurate and timely information about Canadian extractives industries operating in the country and processes in place to ensure those companies are aware of their human rights responsibilities.
- Ensure GAC staff in Mexico engage in an open, respectful, and constructive manner with Indigenous communities and human rights defenders; seek out information from rights-holders when issues arise; and make public their support for human rights defenders facing attack or criminalization.

## **Attacks against Human Rights Defenders and Journalists**

Human rights defenders continue to face alarming levels of attacks and harassment due to their activities in Mexico, which includes the protection of lands and territory from large projects or organized crime. Defenders of environmental and Indigenous Peoples' human rights expressed concern about the Mayan Train mega project. The President responded by publicly accusing them of being "false environmentalists".<sup>16</sup> Global Witness documented 30 lethal attacks against land and environmental defenders in 2020, a 67% increase from 2019. Logging was linked to almost a third of these attacks, and half of all the attacks in the country were directed against Indigenous communities<sup>17</sup>. Many of these cases have not been investigated by state authorities. This impunity makes Indigenous peoples, land and environmental defenders even more vulnerable and denies their families the ability to seek justice.

Media workers also continue to be threatened, harassed and attacked; Mexico remains the world's deadliest country for journalists outside of a war zone, according to the Committee to Protect Journalists. On November 25, 2020, during a press conference, the Under-Secretary for Human Rights, Migration and Population reported that 2020 had been the deadliest year for journalists in Mexico in a decade, registering 19 killings up to that date.

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<sup>16</sup> Amnesty International, <https://www.amnesty.org/en/location/americas/north-america/mexico/report-mexico/>

<sup>17</sup> Global Witness, Last Line of Defence, <https://www.globalwitness.org/en/campaigns/environmental-activists/last-line-defence>

In July 2021, an innovative collaborative research initiative, "Project Pegasus," under the coordination of Forbidden Stories together with the technical support of Amnesty International, showed that the Mexican State used the NSO Group's Pegasus software for massive and selective illegitimate surveillance actions against activists, journalists and human rights defenders. The evidence indicates the presence of the spy software in more than 50,000 cell phones in 10 countries, of which 15,000 are Mexican. Such massive surveillance violates targeted individuals' and groups' rights to freedom of privacy and expression, to personal security, and to the presumption of innocence, and the State has the obligation to protect them.

### **Recommendations:**

The Government of Canada should press its counterparts in the Government of Mexico to:

- Commit to transparency of current and past contracts with NSO Group, subsidiaries and/or affiliates and to hand over and account for public spending for mass surveillance with the use of the Pegasus malware<sup>18</sup>.
- Carry out the necessary legislative reforms on the use, management and distribution of government software that compromises personal data, while providing certainty to individuals regarding the cases, circumstances and procedures in which their privacy may be invaded by the State; legislate and regulate the powers of government surveillance to prevent, detect and deter abuse.
- Support a joint initiative of civil society and government to create and implement an integral public policy for the protection of human rights defenders and journalists that includes and goes beyond strengthening the Mechanism for Protection of Human Rights Defenders and Journalists.
- Ensure impartial and exhaustive investigations into the murders of land and environmental defenders and bring those responsible to justice in a timely manner.

### **Compliance with International Commitments in the Field of Human Rights**

In recent years, Mexico has been examined by various treaty bodies and visited by experts from the UN and the Inter-American human rights system. The final observations of these bodies have resulted in 3,494 recommendations that are highly relevant to addressing the critical human rights situation in the country. However, most of the recommendations have not been effectively implemented. The reasons given by the State for not complying with certain decisions are particularly worrying. For example, in the case of the three opinions on disappearance and forced disappearance issued by the Human Rights Committee, the Executive Commission for Attention to Victims (CEAV) responded that it "does not consider the decisions of the UN treaty bodies binding."

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<https://amnistia.org.mx/contenido/index.php/amnistia-internacional-hace-un-llamado-al-gobierno-mexicano-a-publicar-el-contrato-con-pegasus-y-a-legislar-para-proteger-a-la-poblacion-de-la-cibervigilancia/>

**Recommendations:**

The Government of Canada should press its counterparts in the Government of Mexico to:

- Implement as soon as possible the more than 3,494 recommendations that have been made to the Mexican State from 1994 to date by human rights treaty bodies, mechanisms and special procedures, including, amongst others, Resolution 35/2021 of the Inter-American Commission on Human Rights that calls on Mexico to adopt the necessary and culturally pertinent security measures to protect the life and personal integrity of Tzotzil indigenous families in twelve identified communities of Aldama, Chiapas.<sup>19</sup>

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<sup>19</sup> Inter-American Commission on Human Rights, Resolution 35/2021,  
[https://www.oas.org/en/iachr/decisions/mc/2021/res\\_35-21\\_mc\\_284-18\\_mx\\_en.pdf](https://www.oas.org/en/iachr/decisions/mc/2021/res_35-21_mc_284-18_mx_en.pdf)