



MEXICO
**Compliance with the Convention Against Torture
and Other Cruel, Inhuman or Degrading Treatment or Punishment**

Submitted by The Advocates for Human Rights
a non-governmental organization in special consultative status with ECOSOC since 1996

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications.

The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. A growing number of victims fleeing extrajudicial killings, gender-based violence, and violence targeting LGBTI persons in Mexico have requested legal assistance from The Advocates in applying for asylum in the United States. First-hand information from asylum-seekers about the human rights violations that they experienced in Mexico has been used in this submission with their permission.

EXECUTIVE SUMMARY

1. Widespread violence, particularly gender-based violence and violence targeting lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, continues to increase throughout Mexico. The problem is compounded by criminal gang activities, as well as the lack of a genuinely independent and impartial system for combatting impunity, fighting corruption, and carrying out independent and impartial criminal investigations.
2. The 2007 General Law on Women's Access to a Life Free of Violence has not been fully implemented across Mexico. Further, certain legal mechanisms introduced under the General Law have not proven to be effective, as violence against women remains a major concern. In 2016, officials estimated that 2,668 Mexican women were victims of homicide. Most cases of gender-based violence are inadequately investigated, with perpetrators enjoying impunity. Moreover, LGBTI persons in Mexico experience discrimination, harassment, and the threat of violence, with murders of LGBTI persons occurring at a rate of nearly six homicides per month.
3. Despite significant reforms to the criminal justice system, individuals continue to lack adequate protection from violence and human rights abuses to which law enforcement is complicit, if not directly involved. Even where cases are brought to trial, there is significant pressure against the pursuit of justice on behalf of victims of human rights abuses.
4. The Advocates for Human Rights has received direct information about extrajudicial killings, gender-based violence, and violence and ill-treatment targeting LGBTI persons in Mexico, as well as problems with impunity and police corruption, from survivors seeking asylum in the United States.¹ The firsthand experiences of The Advocates' asylum clients confirm that the legal system and policies in Mexico fail to provide individuals with adequate protection from violence and human rights abuses to which law enforcement is complicit, if not directly involved.

Mexico fails to uphold its obligations under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

5. As a State party to the Convention Against Torture (CAT), Mexico has an obligation to ensure that no person—including women and LGBTI individuals—are subjected to torture or to cruel, inhuman or degrading treatment or punishment. This duty extends to prohibiting, preventing, investigating, and providing redress for torture and ill-treatment, including by making such acts offenses under domestic criminal law.² A State may

¹The case information presented in this submission is compiled from intake and other interviews conducted by The Advocates for Human Rights with asylum seekers from Mexico between 2015 and 2018 (hereinafter referred to as "Interviews conducted by The Advocates (2015-2018)"). Some details have been removed to maintain confidentiality and to protect the identities of clients and their families. Information has been used with permission

violate the Convention Against Torture both by directly committing, instigating, inciting or encouraging such acts, or by acquiescing or failing to take steps to deal with such acts by private or public actors.³

I. Impunity and Violence Against Women and LGBTI Persons (Article 2, LOIPR paragraph 5)

Gender-based Violence

6. At the last review of Mexico in 2012, the Committee expressed concern about gender-based murders and disappearances, as well as indications that a new legal framework to combat violence against women was not being fully applied by many Mexican states.⁴ The Committee also expressed regret about the persistence of impunity for serious acts of violence against women and urged the State party to redouble its efforts to prevent and combat violence against women, including punishing the perpetrators.⁵
7. In its List of issues prior to the submission of the seventh periodic report (LOIPR) of Mexico, the Committee requested disaggregated data on the number of complaints, investigations, convictions and sentences handed down for gender-based violence, including domestic violence and femicide.⁶ In its report, Mexico provided statistics on violence against women in Mexico that indicate further room for improvement in its obligation to protect women from gender-based violence.⁷
8. In 2007, the Mexican Congress established a comprehensive state and federal framework “to ensure the right of women to live free from violence and discrimination”.⁸ The 2007 law specifically addresses femicide, and also protects against physical and sexual violence, and “violence against the woman’s dignity, integrity or freedom”.⁹ However this law has not been fully implemented across Mexico, and some legal mechanisms have

² United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*hereinafter referred to as “CAT”*) 1984, Arts. 1, 2, 4(1), 10, 12, 13, 14 and 16. See also Committee Against Torture, *General Comment No. 2*, (24 January 2008), U.N. Doc. CAT/C/GC/2.

³ Committee Against Torture, *General Comment No. 2*, (24 January 2008), U.N. Doc. CAT/C/GC/2, ¶ 15-19.

⁴ *Concluding observations on the combined fifth and sixth periodic reports of Mexico as adopted by the Committee at its forty-ninth session (29 October-23 November 2012)*, (Dec. 11, 2012), U.N. Doc. CAT/C/MEX/CO/5-6. ¶ 13

⁵ *Concluding observations on the combined fifth and sixth periodic reports of Mexico as adopted by the Committee at its forty-ninth session (29 October-23 November 2012)*, (Dec. 11, 2012), U.N. Doc. CAT/C/MEX/CO/5-6. ¶ 13.

⁶ *List of issues prior to the submission of the seventh periodic report of Mexico due in 2016*, (June 12, 2014), U.N. Doc. CAT/C/MEX/QPR/7. ¶ 5.

⁷ *Seventh periodic report submitted by Mexico under article 19 of the Convention, due in 2016*, (Feb. 6, 2018), U.N. Doc. CAT/C/MEX/7, ¶ 23.

⁸ *Católicas por el Derecho a Decidir (CDD) and Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), Femicide and Impunity in Mexico: A context of structural and generalized violence*, Jul. 17, 2012. Also available at http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/CDDandCMDPDH_forthesession_Mexico_CEDAW52.pdf.

⁹ Research Directorate, Immigration and Refugee Board of Canada, *Mexico: Adoption of the General Law on Women's Access to a Life Free of Violence (Ley General de Acceso de las Mujeres a una Vida Libre de Violencia), its implementation regulations, and local implementation laws in the Federal District and the states of Mexico, Jalisco and Querétaro* (Ottawa, ON: Immigration and Refugee Board of Canada, 12 June 2008), accessed 16 March 2018, <http://www.refworld.org/docid/48a3028817.html>.

proven ineffective¹⁰ with inadequate protection for women and girls against domestic and sexual violence.¹¹

9. Violence against women remains a major concern in Mexico.¹² In 2016, an estimated 2,668 Mexican women were victims of homicide.¹³ Further, 66.1% of girls and women aged 15 and older “experienced gender-based violence at least once in their lives”.¹⁴ Most cases of gender-based violence are inadequately investigated, with perpetrators enjoying impunity.¹⁵
10. For example, one client fled to the United States out of fear of being killed by her former partner, a member of a Mexican drug cartel. The police told her that they were unable to do anything about her partner’s violent abuse and his threats to her family. She explained that the cartel “had the police.” Our client fled to another Mexican state, but her former partner made threats on social media and left messages on her phone, saying that he would find her, kill her and chop her up.¹⁶
11. Another client of The Advocates reported being repeatedly sexually assaulted by her husband, and that she once stopped her husband from raping their daughter. Her husband locked our client and her daughter in the house every day when he left for work. When they finally escaped, our client did not go to the police because “the police never help.”¹⁷

Violence and Ill-treatment on the Basis of Sexual Orientation or Gender Identity

12. Same-sex marriage has been legal in Mexico City since 2010, and several states have legalized it in the years since, bolstered by recent Mexican Supreme Court rulings

¹⁰ For example, the “Alerts of gender-based violence against women” which are now active in 12 states, have not reduced gender-based violence against women and girls. Amnesty International, *Amnesty International Report 2017/2018: The State of the World’s Human Rights* (London, U.K.: Amnesty International Ltd., 2018), 260. Also available at <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>.

¹¹ Human Rights Watch, *Country Summary: Mexico*, (New York, N.Y.: Human Rights Watch, January 2017), 6. Also available at https://www.hrw.org/sites/default/files/mexico_1.pdf. For example, some legal provisions in Mexico “make the severity of punishments for some sexual offenses contingent upon the ‘chastity’ of the victim”. *Id.*

¹² Amnesty International, *Amnesty International Report 2017/2018: The State of the World’s Human Rights* (London, U.K.: Amnesty International Ltd., 2018), 257. Also available at <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>.

¹³ Amnesty International, *Amnesty International Report 2017/2018: The State of the World’s Human Rights* (London, U.K.: Amnesty International Ltd., 2018), 260. Also available at <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>.

¹⁴ Amnesty International, *Amnesty International Report 2017/2018: The State of the World’s Human Rights* (London, U.K.: Amnesty International Ltd., 2018), 260. Also available at <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>.

¹⁵ Amnesty International, *Amnesty International Report 2017/2018: The State of the World’s Human Rights* (London, U.K.: Amnesty International Ltd., 2018), 260. Also available at <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>.

¹⁶ Interviews conducted by The Advocates (2015-2018).

¹⁷ Interviews conducted by The Advocates (2015-2018).

upholding same-sex couples' rights to marry and to adopt children without discrimination.¹⁸

13. Nevertheless, lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons in Mexico continue to experience discrimination, harassment, and the threat of violence.¹⁹ However, between 2014 and 2016, at least 202 LGBTI persons were murdered—a rate of nearly six homicides per month—most of whom were trans women.²⁰
14. One client of The Advocates who is transgender reported suffering abuse from members of her family from an early age. Her uncle began sexually abusing her when she was five-years-old. Her brothers sometimes hit her for playing with dolls. Her father often would beat her with his belt. When she was seven, her father even held her upside down by her feet and dunked her in a tank of water, telling her to behave more like a boy.²¹
15. Another client has faced discrimination and harassment since he was a child. From a young age, his older brother would frequently beat him so “that he would become a man.” While in a juvenile detention center, our client was abused by the police, who verbally harassed him, hit him in the face, and put toothpicks in his eyes and mouth while he was sleeping. While he was still a child, a group of men later forced him at gunpoint onto the back of a truck, and stripped him naked, telling him that he was going to die. Our client reported routinely being harassed by men in his communities, often being provoked into fights to defend himself. He told us that it is futile to rely on the police for protection from violence and near constant abuse.²²

Impunity for Violence and Ill-treatment of Women and LGBTI Persons

16. Impunity and corruption in the law enforcement and justice systems in Mexico remain serious problems.²³ One of The Advocates' clients reported that, when seeking help from

¹⁸ Amnesty International, *Amnesty International Report 2017/2018: The State of the World's Human Rights* (London, U.K.: Amnesty International Ltd., 2018), 260. Also available at <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>. In May 2016, however, the national Congress vetoed a bill introduced by President Peña Nieto that would “legalize same-sex marriage, to remove sexual orientation and gender identity as barriers to adoption, and to recognize gender identity through the reissuance of birth notices, without a doctor’s involvement.” Human Rights Watch, *Country Summary: Mexico*, (New York, N.Y.: Human Rights Watch, January 2017), 6. Also available at https://www.hrw.org/sites/default/files/mexico_1.pdf.

¹⁹ U.S. Department of State, *Country Reports on Human Rights Practices for 2016: Mexico* (Washington, D.C.: Bureau of Democracy, Human Rights, and Labor, Apr. 7, 2017), 3. Also available at <https://www.state.gov/documents/organization/265812.pdf>.

²⁰ EFE, More than 200 members of LGBT community killed in Mexico over three-year period, *Al Dia*, May 18, 2017, <http://aldianews.com/articles/politics/more-200-members-lgbt-community-killed-mexico-over-three-year-period/48171>.

²¹ Interviews conducted by The Advocates (2015-2018).

²² Interviews conducted by The Advocates (2015-2018).

²³ Amnesty International, *Amnesty International Report 2017/2018: The State of the World's Human Rights* (London, U.K.: Amnesty International Ltd., 2018), 256. Also available at

the captain of the local police station, she was told she that she would only receive help in return for sexual favors. When she threatened to report the sexual harassment, the captain replied “something worse would happen to her”. Following the incident, he and fellow officers frequently harassed and threatened her when patrolling in her neighborhood.²⁴

II. Impunity and Violence Perpetrated by Organized Crime (Article 16, LOIPR paragraph 26).

17. In its LOIPR, the Committee requested that Mexico indicate measures taken to deal with violence perpetrated by organized crime in the state party.²⁵
18. Many of The Advocates’ clients have experienced violence perpetrated by members of organized criminal gangs. For example, one client, a career police officer, was the target of the local drug cartel’s threats for many years. As threats against him and his family intensified, senior government officials warned our client that they could no longer ensure his family’s safety and urged him to flee.²⁶
19. Credible secondary sources confirm that the problem of violence perpetrated by organized crime is compounded by lack of accountability for its members. Criminal gangs are “at times in league with corrupt state, local, and security officials,”²⁷ resulting in “extremely low rates of prosecution for all forms of crimes.”²⁸ Moreover, criminal justice officials face significant pressure against the pursuit of justice on behalf of victims of human rights abuses.²⁹

<https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>. See also U.S. Department of State, *Country Reports on Human Rights Practices for 2016: Mexico* (Washington, D.C.: Bureau of Democracy, Human Rights, and Labor, Apr. 7, 2017), 3. Also available at <https://www.state.gov/documents/organization/265812.pdf>; Office of the High Commissioner for Human Rights, *Mexico: Ayotzinapa investigation marred by torture and cover-ups - UN report*, accessed Mar. 16, 2018, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22830&LangID=E>.

²⁴ Interviews conducted by The Advocates (2015-2018).

²⁵ *List of issues prior to the submission of the seventh periodic report of Mexico due in 2016*, (June 12, 2014), U.N. Doc. CAT/C/MEX/QPR/7. ¶ 26

²⁶ Interviews conducted by The Advocates (2015-2018).

²⁷ U.S. Department of State, *Country Reports on Human Rights Practices for 2016: Mexico* (Washington, D.C.: Bureau of Democracy, Human Rights, and Labor, Apr. 7, 2017), 3. Also available at <https://www.state.gov/documents/organization/265812.pdf>.

²⁸ U.S. Department of State, *Country Reports on Human Rights Practices for 2016: Mexico* (Washington, D.C.: Bureau of Democracy, Human Rights, and Labor, Apr. 7, 2017), 3. Also available at <https://www.state.gov/documents/organization/265812.pdf>.

²⁹ Justice in Mexico, *2016 Justiciabarómetro—Perspectives on Mexico’s Criminal Justice System: What Do Its Operators Think?*, by Nancy G. Cortés, Octavio Rodríguez Ferreira, and David A. Shirk (San Diego, CA: University of San Diego, 2017), 17. Also available at <https://justiceinmexico.org/wp-content/uploads/2017/03/2016-Justiciabarometro-English-Version-Online.pdf>.

III. Suggested Recommendations for the Government of Mexico

20. The Advocates make the following recommendations related to violence against women:

- Amend the Criminal Code so the severity of punishments for sexual offenses is never contingent upon the “chastity” of the victim. Establish oversight bodies and accountability processes to ensure the full implementation of the General Law on Women’s Access to a Life Free of Violence.
- Train members of the law enforcement and judiciary on the dynamics of domestic violence and gender-based violence, including the best practice standards on responding to such violence. Such trainings should be led by or done in consultation with organizations that serve victims of domestic violence and LGBTI communities, complying with international human rights standards. To ensure consistency for the law enforcement response, provide adequate trainings in relation to the application of legislative norms on restraining orders.

21. The Advocates make the following recommendations related to violence against LGBTI persons:

- Amend the Criminal Codes of all Mexican states so that crimes committed on the basis of the victim’s sexual orientation or gender identity are considered hate crimes.
- Legalize same-sex marriage throughout the country.
- Remove sexual orientation and gender identity as barriers to adoption.
- Recognize gender identity through the reissuance of birth notices, without a doctor’s involvement.
- Take the necessary steps to train federal, state, and municipal law enforcement on international standards.

19. The Advocates make these recommendations related to impunity:

- Enact laws to effectively guarantee the independence, autonomy and professionalism of the Office of Attorney General, including internal oversight bodies and accountability processes, as recommended by the Office of the High Commissioner for Human Rights.
- Combat impunity by enacting laws to ensure oversight and accountability of Mexico’s state and municipal police forces.
- Implement the UN High Commissioner’s recommendation to create a national advisory council to combat impunity.