



MEXICO

Compliance with the International Covenant on Civil and Political Rights

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 against women 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. 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. Mexican authorities have not fully implemented the 2007 General Law on Women's Access to a Life Free of Violence. Further, certain legal mechanisms introduced under the General Law have not proven to be effective, as violence against women remains a major problem. In 2018 alone, Mexico's public prosecutor's offices received 845 investigations into gender-based killings of women. Most investigations of gender-based crimes are inadequate, with perpetrators enjoying impunity.
3. Despite significant reforms to the criminal justice system, individuals continue to lack adequate protection from violence and human rights abuses in which law enforcement is complicit, if not directly involved. Even where cases are brought to trial, there is significant pressure not to hold offenders accountable.
4. The Advocates for Human Rights has received direct information about extrajudicial killings, gender-based violence against women, 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 International Covenant on Civil and Political Rights.

5. As a State Party to the International Covenant on Civil and Political Rights (ICCPR), Mexico has an obligation to ensure that no person—including women and LGBTI individuals—is subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 7). The Covenant requires Mexico to ensure that all individuals

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 2019 (hereinafter referred to as "Interviews conducted by The Advocates (2015-2019)"). Some details have been removed to maintain confidentiality and to protect the identities of clients and their families. Information is used with permission.

within its territory enjoy the same rights without discrimination based on any distinction, including gender and sexuality (Article 2, Article 3). Furthermore, the ICCPR obliges Mexico to ensure that all persons living within its jurisdiction are equal before the law (Article 26).²

I. Violence and Ill-treatment on the Basis of Sexual Orientation or Gender Identity (LOIPR Paragraph 8)

6. In its List of Issues Prior to Reporting, the Committee requested information on measures taken by the State Party to combat discrimination and violence based on sexual orientation or gender identity, including the number of complaints, investigations, sentences handed down, and remedies provided to victims.³
7. In its Concluding Observations following the review of Mexico in 2010, the Committee expressed concern about reports of violence against LGBTI individuals despite legislation that prohibits discrimination based on sexual orientation or gender identity.⁴
8. In its Replies to the List of Issues in 2018, Mexico made reference to several anti-discrimination laws enacted since 2010 and efforts to provide training for civil servants to combat homophobia. Mexico also mentioned a new protocol for investigations of sexual violence including two trainings to implement the protocol.⁵
9. 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 upholding same-sex couples' rights to marry and to adopt children without discrimination.⁶
10. In May 2016, however, the national Congress vetoed a bill President Peña Nieto introduced 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."⁷

² United Nations International Covenant for Civil and Political Rights (*hereinafter referred to as "ICCPR"*) 1976, Arts. 3, 7, 23 (4), 26. See also International Covenant for Civil and Political Rights, *General Comment No. 28*, (29 March 2000), U.N. Doc. CCPR/C/21/Rev.1/Add.10.

³ *List of issues prior to the submission of the sixth periodic report of Mexico due in 2018*, (25 July 2014), U.N. Doc. CCPR/C/MEX/QPR/6 ¶ 8.

⁴ International Covenant on Civil and Political Rights, *Concluding Observations: Mexico*. (17 May 2010). U.N. Doc. CCPR/C/MEX/CO/5 ¶ 21.

⁵ International Covenant on Civil and Political Rights, *Sixth Periodic Report submitted by Mexico, due in 2015* (11 Jun 2018) U.N. Doc. CCPR/C/MEX/6 ¶48-56

⁶ 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>

⁷ 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

11. **LGBTI persons in Mexico continue to experience discrimination, harassment, and the threat of violence.**⁸ Between 2014 and 2016, at least 202 LGBTI persons, most of whom were trans women, were murdered; a rate of nearly six homicides per month.⁹
12. Mexico City adopted both a hate crimes statute and an anti-discrimination law in 2010. Despite this legislation at the state level, however, hate crimes against LGBTI individuals persist. When victims report violence, police often minimize hate crimes by filing them as “crimes of passion.”¹⁰
13. **Mexico’s failure to protect members of the LGBTI community leaves these individuals vulnerable to abuse.** 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.¹¹
14. **Impunity and corruption in the law enforcement and justice systems in Mexico remain serious problems.**¹² These systemic inadequacies are significant barriers to protections for the LGBTI community; some LGBTI individuals face the threat of violence “from government actors themselves.”¹³
15. Many LGBTI individuals face violence perpetrated by Mexican authorities. For example, one client who is a gay man has faced discrimination and harassment since he was a child. From a young age, his older brother 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

⁸ Cornell University Transgender Law Center, *Report on Human Rights Conditions of Transgender Women in Mexico* (Oakland, CA : May 2016), Accessed 4 September 2019. Available at <https://transgenderlawcenter.org/wp-content/uploads/2016/05/CountryConditionsReport-FINAL.pdf>

⁹ 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>.

¹⁰ Cornell University Transgender Law Center, *Report on Human Rights Conditions of Transgender Women in Mexico* (Oakland, CA : May 2016), 12. Accessed 10 September 2019. Available at <https://transgenderlawcenter.org/wp-content/uploads/2016/05/CountryConditionsReport-FINAL.pdf>

¹¹ Interviews conducted by The Advocates (2015-2019).

¹² 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 <https://www.amnesty.org/download/Documents/POL1067002018ENGLISH.PDF>. See also 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>.

¹³ Cornell University Transgender Law Center, *Report on Human Rights Conditions of Transgender Women in Mexico* (Oakland, CA : May 2016), 14. Available at <https://transgenderlawcenter.org/wp-content/uploads/2016/05/CountryConditionsReport-FINAL.pdf>

he was sleeping. While he was still a child, a group of men 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.¹⁴

II. Impunity and Violence against Women (Articles 3, 7, LOIPR paragraph 9)

Gender-based Violence against Women

16. **Violence against Women remains a major problem in Mexico.**¹⁵ In 2018 alone, Mexico's public prosecutor's offices received 845 investigations into gender-based killings.¹⁶ Further, 66.1% of girls and women aged 15 and older "experienced gender-based violence at least once in their lives."¹⁷
17. In its LOIPR, the Committee requested information on the number of complaints, investigations, convictions and sentences handed down for gender-based violence against women, including updates on the State Party's efforts to prevent violence against women and criminalize femicide.¹⁸
18. In its Concluding Observations following the last review of Mexico, the Committee expressed concern about the prevalence of violence against women. In addition, the Committee noted the low number of sentences handed down for crimes against women and a lack of harmony between the General Law on Access by Women to a Life without Violence and legislation at the state level.¹⁹
19. Mexico's replies to the List of Issues in 2018 cited amendments to the 2007 General Act on Women's Access to a Life Free of Violence intended to improve implementation of the law and increase harmony between federal and state entities. Nevertheless,

¹⁴ Interviews conducted by The Advocates (2015-2019).

¹⁵ 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>.

¹⁶ Amnesty International, *Open Letter Andres Manuel Lopez Obrador Beyond 100 of Government* (London, U.K.: Amnesty International Ltd, 11 March 2019), 3. Also available at <https://www.amnesty.org/download/Documents/AMR4199962019ENGLISH.pdf>

¹⁷ 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>.

¹⁸ *List of issues prior to the submission of the sixth periodic report of Mexico due in 2018*, (25 July 2014), U.N. Doc. CCPR/C/MEX/QPR/6. ¶ 9.

¹⁹ International Covenant on Civil and Political Rights, *Concluding Observations: Mexico*. (17 May 2010). U.N. Doc. CCPR/C/MEX/CO/5 ¶ 8.

information provided by Mexico on victim support services indicated room for improvement.²⁰

20. 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.”²¹ The 2007 law specifically addresses femicide, and it also protects against physical and sexual violence, and “violence against the woman’s dignity, integrity or freedom.”²²
21. **Mexican authorities have failed to implement the law fully, however, and some legal mechanisms have proven ineffective.** For example, the General Law on Women’s Access to a Life Free of Violence includes “Alerts of gender-based violence against women.”²³ These mechanisms are designed to encourage immediate action from relevant authorities, offer services to victims, and expedite investigations.²⁴ Though these alerts are active in 12 states, they have not reduced violence against women and girls.²⁵
22. Other legal requirements hinder effective accountability of offenders who perpetrate domestic and sexual violence. Some legal provisions in Mexico, for instance, “make the severity of punishments for some sexual offenses contingent upon the ‘chastity’ of the victim.”²⁶
23. **Mexico’s failure to protect women and girls from violence leaves them vulnerable to abuse.** A client of The Advocates reported, for instance, reported experiencing violent abuse by her husband, who was involved in a Mexican drug cartel. Following the birth of their daughter, her husband threatened her with a knife, grabbed her by the hair, and

²⁰ International Covenant on Civil and Political Rights, *Sixth Periodic Report submitted by Mexico, due in 2015* (11 Jun 2018) U.N. Doc. CCPR/C/MEX/6 ¶¶57-68

²¹ 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.

²² 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>.

²³ 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>.

²⁴ 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 13 Sep 2019, <http://www.refworld.org/docid/48a3028817.html>.

²⁵ 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>.

²⁶ 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, 6.

threw her to the ground. During one incident in front of her parents he hit her, causing multiple bruises.

Impunity for Violence and Ill-treatment of Women

24. **Impunity for human rights violations in Mexico is a significant barrier for victims seeking protection from gender-based violence.** Most investigations of these crimes are inadequate, and perpetrators often enjoy impunity.²⁷
25. At least one client attributed the pervasive impunity to police omission to act and to corruption. When she sought protection from the police against her abusive husband, the police promised to investigate but never followed up on anything. She attributes the inaction of the authorities to “police corruption.”²⁸
26. **Lack of accountability for abuses forces women and girls to flee the country to remain safe.** Another client reported being sexually harassed by her uncle at a young age. If she had stayed in Mexico, she would have been forced to live alone on property her uncle owns. Her elderly grandparents were unable to care for her, and her mother lived in the United States. Our client was forced to flee Mexico altogether rather than risk further sexual harassment while living on her uncle’s property.
27. **Direct reports reveal police collaboration with criminals for personal gain.** For example, another client reported that, when seeking help from the captain of the local police station, a police officer told her 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.²⁹

II. Impunity and Violence Perpetrated by Organized Crime (LOIPR Paragraph 14)

28. In its LOIPR, the Committee requested that Mexico indicate measures taken to combat violence perpetrated by organized crime.³⁰
29. Following the review of Mexico in 2010, the Committee indicated that the State Party’s responses to human rights violations that have occurred in the fight against organized crime are insufficient.³¹

²⁷ 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>.

²⁸ Interviews conducted by The Advocates (2015-2019).

²⁹ Interviews conducted by The Advocates (2015-2019).

³⁰ *List of issues prior to the submission of the sixth periodic report of Mexico due in 2018*, (25 July 2014), U.N. Doc. CCPR/C/MEX/QPR/6. ¶ 14

³¹ International Covenant on Civil and Political Rights, *Concluding Observations: Mexico*. (17 May 2010). U.N. Doc. CCPR/C/MEX/CO/5 ¶ 11

30. In its State Party Report submitted in 2018, Mexico mentioned that the government increased non-military security personnel in 2014 as part of its effort to fight organized crime. There was, however, little mention of police corruption or complicity with criminals.³²
31. **Many of The Advocates’ clients have reported experiencing violence perpetrated by members of organized criminal gangs and the State’s failure to protect them.** For example, one client, whose family owned a small business, experienced gang violence after the family refused to pay a “quota.” While our client and her family were out shopping a few days later, gang members drove by and shot our client, who was seven months pregnant, her husband, and their young daughter. She and her husband received emergency surgery, and their daughter sustained injuries to her spine. Due to the attack by gang members, our client lost the use of her elbow and had a miscarriage.³³
32. Secondary sources confirm that, as with other private actors, organized crime members perpetrate violence in a climate of impunity. Following investigation of the Ayotzinapa case in 2014, the Office of the UN High Commissioner indicated that Mexican authorities inadequately investigated and even covered up the murder of 43 students by a criminal gang. The UN High Commissioner for Human Rights recommended an advisory council to combat impunity for human rights violations perpetrated by gangs such as the crimes in this case. Mexico has not yet implemented the High Commissioner’s recommendation.³⁴
33. In 2013, Mexico passed a federal victims law intended to address corruption, inadequate resources, and complicity of authorities with criminals. The government made reforms in 2017 to combat bureaucracy and increase victim access, but victims report that access to protection remains limited.³⁵
34. **Firsthand accounts from our clients are consistent with reports of impunity from secondary sources.** For example, another client whose family owned a small business in Mexico reported being harassed by local police working with hitmen to enforce weekly “quotas.” When the family failed to pay the quotas, hitmen killed our client’s husband and one of her sons. Later, when another son took over the business, hitmen attempted to kill him, rendering him blind in one eye and taking away the use of his arm. Reportedly,

³² International Covenant on Civil and Political Rights, *Sixth Periodic Report submitted by Mexico, due in 2015* (11 Jun 2018) U.N. Doc. CCPR/C/MEX/6 ¶75

³³ Interviews conducted by The Advocates (2015-2019).

³⁴ Office of the High Commissioner for Human Rights, *Mexico: Ayotzinapa investigation marred by torture and cover-ups - UN report*, accessed Sept. 10, 2019. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22830&LangID=E>.

³⁵ Human Rights Watch, *World Report 2019: Mexico* (2019). Accessed Sept. 10, 2019. Available at <https://www.hrw.org/world-report/2019/country-chapters/mexico>

these hitmen were in league with the police; government logos appeared on some of their vehicles.³⁶

III. Suggested Recommendations for the Government of Mexico

35. The Advocates suggests the following recommendations related to violence against LGBTI persons:

- Require all states to amend the criminal code so that crimes committed on the basis of the victim's sexual orientation or gender identity are considered hate crimes. Ensure that authorities properly file hate crimes as such, not as crimes of passion.
- Legalize same-sex marriage throughout the country.
- Implement a bill in Congress to remove sexual orientation and gender identity as barriers to adoption and recognize gender identity through the reissuance of birth notices, without a doctor's involvement.
- Involve organizations that serve victims of violence in the LGBTI community in training for federal, state, and municipal law enforcement in order to comply with international standards for non-discrimination and accountability.

36. The Advocates suggests the following recommendations related to violence against women:

- Amend the criminal code so that the severity of punishments for sexual offenses that are contingent upon the "chastity" of the victim are repealed.
- 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 law enforcement and prosecutors on the dynamics of domestic violence and gender-based violence against women, including best practice standards on responding to such violence.
- Organizations that serve victims of domestic violence and sexual violence should lead or be in consultation for such trainings to ensure it complies with international human rights standards.

³⁶ Interviews conducted by The Advocates (2015-2019).

- To ensure a consistent law enforcement response, provide adequate trainings in relation to the application of legislative norms on restraining orders and other means of protecting victims' safety while respecting that autonomy.
- Amend legislation to ensure women and girl who are victims of violence have access to effective protection, including an order for protection, remedy, and comprehensive and accessible victim services, including shelters, hotlines, legal aid, and health care.

37. **The Advocates suggests these recommendations related to impunity:**

- To combat impunity and collusion between authorities and criminals, implement the UN High Commissioner's recommendation, following the 2014 Ayotzinapa Investigation, to create a national advisory council.
- Increase funding and resources for the 2013 Federal Victims Law to cut down on bureaucratic delays for victims of crimes and combat impunity for perpetrators.
- Enact laws to effectively guarantee the independence, autonomy, and professionalism of the Office of Attorney General, including internal oversight bodies and accountability processes.