

# MEXICO AND ITS FOREIGN POLICY OF DENIAL

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- *Defending human rights* •  
*in the context of setbacks*

## ABSTRACT

*In recent years, there has been a gradual denial in Mexican foreign policy both about the human rights violations that are taking place within the country and also about the role of human rights organizations and international bodies that denounce the violations. This confrontational and regressive foreign policy has serious consequences for the defense of human rights in Mexico, making it increasingly difficult for human rights defenders to work safely and legitimately. Consequently, Mexican civil society organisations are seeking strategies to highlight abroad the serious situation and to generate alliances with national and international actors in order to protect themselves when they denounce and attempt to reverse Mexican policy on the matter.*

## KEYWORDS

Foreign policy | Citizen diplomacy | Setbacks | Civil society organisations

## Introduction

After the change in government in the early 2000s Mexico's foreign policy in the area of human rights was marked, for over a decade, by its commitment to promote the human rights agenda and strengthen international mechanisms for the protection and defence of human rights at the multilateral level.

This commitment was reflected not only in the dynamic efforts of its diplomatic teams to further the development of international human rights law in multilateral forums, but also its decision to open the country to the international scrutiny of international observers, ratify international human rights treaties<sup>1</sup> and lift reservations on the treaties that it had already ratified. It could also be seen in its acceptance of the competence of human rights bodies to receive individual complaints.

However, while Mexico's good efforts abroad consolidated its image in the multilateral sphere as a state that promotes and guarantees respect for human rights, inside the country, a gruelling war against drug trafficking was unfolding. Initiated in 2006 by Felipe Calderón, the war turned into one of the most severe human rights crises in the country's history.

### I • The reversal of Mexico's foreign policy on human rights since 2012

The change, in 2012, of administration and political party put at the centre of the debates of analysts, security and media specialists, activists and human rights defenders the need to change the country's security policy and institutional narrative to go beyond Calderón's warmongering and to ensure they are based on the respect for human rights. However, with only one year left in the current presidential term, more and more voices from civil society (organised and unorganised), international human rights bodies, the academic world and the media (mainly independent channels) agree that a human rights crisis exists in Mexico and that there is no political will to end it.

Despite this increasingly common view and the substantiated empirical evidence of bodies and institutions dedicated to the promotion and defence of human rights, the Enrique Peña Nieto administration has maintained a policy of denial and even confrontation with those who have confirmed the severity of the human rights situation in the country.

This clear turnaround in foreign policy has had impacts inside the country. Not only has it led to the failure to give priority to far-reaching political policies to ensure respect for, guarantee and promote human rights, but it has also turned the defence of human rights in the country into a questionable and even illegitimate task.

Over the past two years, since the state's policy of questioning and denying the claims of international human rights organisations has become evident, women and men

human rights defenders in Mexico have been harshly defamed and criminalised and highly exposed to serious threats to their security and personal integrity. To add to this, citizens are fed up with the serious security crisis and high levels of violence and impunity currently plaguing the country, which is the result of the failing security and justice institutions. These frustrations serve to fuel the state's punitive and populist narrative that, paradoxically, portrays respect for human rights as the main problem.

In sum, the current administration's reversal of foreign policy on human rights has created a situation in which the work to defend and promote human rights within the country has become increasingly risky, discredited and criticised.

We analyse below several elements that shine light on the setbacks in the country's foreign policy on human rights and the lack of guarantees for the safety of those who defend human rights and the legitimacy of their work.

## II • Indicators of the setbacks

### 1 - Relations with the UN system for the protection of human rights

In February 2015, the state of Mexico rejected the final observations of the United Nations Committee on Enforced Disappearances, arguing that they “did not correspond to reality”.<sup>2</sup> In March 2015, after United Nations Special Rapporteur on torture Juan Méndez presented the report from his mission to Mexico between 21 April and 2 May 2014, during the 28<sup>th</sup> session of the United Nations Human Rights Council, the Ministry of Foreign Affairs denied that torture was widespread in Mexico, as the rapporteur had stated in his report.<sup>3</sup> What was even more alarming was the Mexican government's position at the 31<sup>st</sup> session of the Human Rights Council, where it questioned the veracity, rigor, professionalism, objectiveness, credibility and adherence to international law of the observations and recommendations issued by the United Nations human rights mechanisms.

In the words of the Under-Secretary for Multilateral Affairs and Human Rights of the Ministry of Foreign Affairs:<sup>4</sup>

*[...] considering the high impact that the observations and recommendations of human rights mechanisms have, we believe it is fundamental that these mechanisms thoroughly verify the information under examination and analyse it in strict adherence to international law. Consequently, they must issue observations that are soundly justified, impartial and based on professionalism in order to facilitate states' task of implementing them [...] We are concerned with the impact of this type of statement on the credibility of the system as a whole, especially in relation to its effectiveness.<sup>5</sup>*

Furthermore, the Mexican government has indicated its intention to silence critical and expert voices in the United Nations by nominating candidates who have always served its interests to positions in the United Nations and Inter-American human rights systems.

## 2 - Relations with the Inter-American human rights system

The Inter-American Commission on Human Rights (IACHR) conducted an on-site visit to Mexico from 28 September to 2 October 2015. During the visit, it interviewed officials from all three branches of government and the different levels of government, representatives of civil society, autonomous bodies, international bodies, scholars and journalists. It also gathered the testimonies of the victims of human rights violations and their family members in Mexico City, Coahuila, Guerrero, Nuevo León, Tabasco and Veracruz. Based on the evidence found, the IACHR confirmed, on the ground, the existence of a grave human rights crisis in Mexico, critical levels of impunity, and inadequate and insufficient attention for the victims of human rights violations and their family members.

In the Mexican government's opinion, the observations presented by the IACHR were insufficient to confirm that the human rights situation in Mexico is serious and, on the contrary, the commission's observations were the result of isolated considerations on "extraordinary" cases.<sup>6</sup> The Ministry of Foreign Affairs once again discredited the methodology that the IACHR used to elaborate the "Human Rights Situation in Mexico" report.<sup>7</sup>

According to the document submitted by Mexico with its observations on the IACHR's report on the human rights situation in the country (No. OEA-03636),<sup>8</sup> the IACHR's work during its visit to the country was biased, as it sought to prove the existence of human rights violations in the country. The Mexican government said that this prevented the Commission from "properly evaluating its sources of information and even using them impartially".<sup>9</sup>

This questioning of the IACHR's reliability and impartiality by the Mexican government came at a time when the IACHR announced it was going through a financial crisis in May 2016. During the Ordinary Session of the OAS Permanent Council held on 25 May 2016, the Mexican government argued that the Commission's "selectivity" in dealing with certain cases or denunciations, its politicisation and partiality on certain issues and countries, and its lack of "uniform criteria" constitute sufficient grounds to no longer trust the IACHR and therefore, to stop supporting it financially.<sup>10</sup>

Similarly, its relationship with the Group of Experts appointed by the Inter-American Commission on Human Rights (IACHR) to provide technical assistance for the investigation of the case of the 43 missing students was visibly difficult. When the Group of Experts invalidated the Mexican government's official version on the students' disappearances, its members became the target of media campaigns that sought to discredit both them and their previous work. These attempts at defamation continued

until the group presented its final report, revealing a pattern of intimidating and criminalising anyone who attempted to discover the truth about the case.

### 3 - Its policy of denying the human rights crisis in the country

The current administration has been characterised by its lack of recognition of and the absence of a reliable national assessment on the real situation in the country and the human rights challenges it is facing. This has been made evident by the growing tendency of the state to ignore the observations of international human rights mechanisms.

In September and October 2015, the United Nations High Commissioner on Human Rights and the Inter-American Commission on Human Rights carried out visits to the country. Both international bodies observed that there is a serious human rights crisis in Mexico. They also agreed that the extreme levels of insecurity, violence and impunity and the alarming number of people who have been assassinated, disappeared, displaced and tortured are shocking, especially for a country that is not in the midst of an armed conflict recognised as such. Even so, the Mexican government has refused to assume its responsibility for the situation.

The Mexican government's unwillingness to recognise the crisis in the country and the consequences of the militarisation of public security on human rights became obvious during the thematic hearing on "Human Rights and Drug Policy" held during the 156<sup>th</sup> period of sessions of the Inter-American Commission on Human Rights in October 2015. During the hearing, the Under-Secretary for Multilateral Affairs and Human Rights of the Ministry of Foreign Affairs affirmed that even though civil society organisations question the participation of armed forces in the fight against organised crime, the Mexican army and air force are seen as the institutions that citizens trust the most.

He also noted that according to public polls, nearly 70 per cent of the population believes that the Mexican armed forces are highly respectful of human rights. He went on to state that some of the civil society organisations that criticise the work of the armed forces in some cases request that they be more present in others to protect people from the criminal acts committed by organised crime. "Therefore, the state is called on to take action against criminal groups and when it does, it is questioned for the way it fights organised crime". He firmly denied that the armed forces were responsible for human rights violations, especially torture, murders and disappearances, and stated that while they might have committed some excesses, these are already being investigated and prosecuted.

Similarly, in its response to the IACHR's report on the human rights situation in Mexico (No. OEA-03636), the Mexican government affirmed that:

*In Mexico's view, it is inconsistent to indicate, as the IACHR did, that the country is experiencing a "serious human rights crisis" when*

*only certain violations – and not rights – were analysed without conducting an assessment of the enjoyment of all or the majority of rights contained in the American Convention on Human Rights and other international instruments and with a scope of special application that is particular to a federal state such as Mexico.*

*[...] the IACHR's draft report comes to conclusions that it appears to have made lightly due to the lack of seriousness of its methodology, sources and use of the information to which it undoubtedly has had access over several years.<sup>11</sup>*

#### 4 - The policy of refusing to recognise the work of women and men human rights defenders

The Mexican government's efforts to discredit the international human rights bodies analysed above have been accompanied by a smear campaign against human rights defenders and organisations, especially human rights defenders who provide support to victims and survivors of torture. This campaign was launched mainly by non-state actors and covered up by high-ranking federal government officials.

In an article entitled “UN rapporteur makes the work of corruption networks to free criminals easier”<sup>12</sup> published on the webpage of a major national radio programme, renowned activists with a long history of defending and promoting human rights while occupying government or civil society positions with high public exposure were deliberately labelled as members of a “network of corruption”. This claim was made by someone close to Mexico's political elite, who is the founder of the organisation *Alto al Secuestro* (Stop Kidnapping), a close ally of the government.

Using arbitrary and untenable arguments, the article claimed that these human rights defenders helped free criminals to obtain millions from the *Fondo de Ayuda, Asistencia y Reparación Integral de Víctimas de la Comisión Ejecutiva de Atención a Víctimas* (Fund for Relief, Assistance and Comprehensive Redress for Victims of the Executive Commission on Attention to Victims). It also alleged that the United Nations Special Rapporteur on torture was facilitating the work of the “network of corruption” by “using torture to make money”.

The smear campaign against human rights defenders influenced public opinion by classifying them as members of criminal organisations and creating the idea that the defence of human rights serves “criminals and not the victims”. Moreover, it criminalised the victims and especially the survivors of torture that the defamed organisations accompany and defend.

Parallel to this, various press releases and opinion columns have been used to spread messages to delegitimise those who demand justice and respect for human rights. *People from the Secretaría de Defensa Nacional* (SEDENA, the Defence Ministry)<sup>13</sup> have alleged that there

are lawyers and organisations that file complaints against military personnel for committing supposed human rights violations in order to taint criminal proceedings and obtain release.<sup>14</sup> They have even warned in national newspapers that there are complaints filed by human rights bodies and defenders that aim to put a halt to the actions that the armed forces carry out for the good of society and thus undermine public trust in Mexico's armed forces.

The narrative claiming that complaints of torture are being filed as a way to taint criminal proceedings is gaining momentum in public opinion in Mexico. Media outlets and civil society organisations with close ties to the country's political elite and whose discourse aims to undermine and criminalise the defence of human rights have promoted and reinforced the idea that torture is not a serious problem in Mexico and that, on the contrary, it is being denounced in order to free "criminals". This argument has even been used repeatedly and strengthened by President Enrique Peña Nieto himself.<sup>15</sup>

Among the high-level public officials who joined and supported the smear campaign against human rights defenders and victims of torture is the former head of the Executive Commission on Attention to Victims.<sup>16</sup> In an interview with a Mexican newspaper,<sup>17</sup> the former head inferred that the civil society organisations that support victims of torture were signing contracts directly with them to receive part of the reparation paid to the victims.<sup>18</sup>

In light of this atmosphere of distrust created and tolerated by the Mexican government towards the defence of human rights, Mexican civil society human rights organisations asked members of Congress, international organisations and UN human rights bodies to demand that the federal government publicly recognise the work on and the legitimacy of the defence of human rights in Mexico. Despite the point of agreement<sup>19</sup> promoted by the Congress and the public declarations of international organisations<sup>20</sup> that joined forces with Mexican civil society human rights groups to urge the federal government to explicitly recognise the work of human rights defenders and guarantee their safety, the federal government responded by refusing to recognise the existence of the smear campaign, thus allowing it to continue.

An example of this was seen during the thematic hearings held in April 2016 during the 157<sup>th</sup> period of sessions of the Inter-American Commission on Human Rights, where the Under-Secretary for Multilateral Affairs and Human Rights of the Ministry of Foreign Affairs<sup>21</sup> indicated that:

*On the issue of the supposed smear campaign, I want to simply say, in all sincerity and frankness, that no one from the Government of Mexico is involved in any smear campaign against CSOs, the IACHR, the Executive Secretary of this Commission or the GIEI. Mexico is a complex and democratic society and there is freedom of expression and it is a fundamental human right. This freedom of expression means we must respect everyone's opinion.*

### III • The actions of Mexican civil society to counter stigmatisation

In the atmosphere of growing distrust, promoted by high-level officials and non-state actors close to and allied with the federal government, civil society human rights organisations launched a series of actions to reverse the attacks and prevent new ones from happening. Some of these actions are:

#### a - Invitation to the United Nations Special Rapporteur on the situation of human rights defenders

In May 2015, a group of Mexican civil society organisations sent a letter to United Nations Special Rapporteur Michel Forst to inform him of the situation of women and men human rights defenders and to request that he make an official visit to Mexico during his mandate as rapporteur. The Rapporteur submitted a request for a visit to the Government of Mexico. After Mexican organisations' lobbying efforts at the Human Rights Council in Geneva, on 27 February 2015, the Mexican government agreed to his visit.

Despite the government's consent to the Rapporteur's visit, no date was set and it soon became obvious that Mexican authorities intended to delay and even prevent the visit from happening. This is why Mexican organisations invited him for an unofficial visit, with the support of the Office of the United Nations High Commissioner on Human Rights in Mexico, which he accepted. During this visit, he had the opportunity to meet with over 100 human rights defenders from several Mexican states in May 2016. Even though Mr. Forst was there unofficially, he also met with high-ranking officials from the Ministry of Foreign Affairs and the Ministry of the Interior, with whom he finally managed to set the dates for his official visit, which took place from 16 to 24 January 2017.

During the meetings we held with the Rapporteur prior to his official visit, we informed him of our concern with the attempts by the Government of Mexico and non-state actors close to government officials to undermine the legitimacy of individuals and civil society organisations to discredit them and create a hostile environment towards human rights defenders by using rhetoric that treats the defence of human rights as a criminal activity. We asked for his cooperation in calling on the Government of Mexico to counter such attacks and take the necessary measures to guarantee a safe environment for individuals and civil society, free from all forms of stigmatisation and aggression.

During his visit to the country, a public event was held on 13 January 2017 to recognise the importance of the defence of human rights in Mexico. High-level federal government officials were present at the event organised by the *Comisión Nacional de los Derechos Humanos* (CNDH, National Human Rights Commission) and the Office of the United Nations High Commissioner for Human Rights in Mexico.<sup>22</sup>

Until now, this has been the only action taken by the federal government to underline the importance of the role of human rights defenders in Mexico, promote a safe environment for the defence of human rights and eliminate open hostility towards this work.<sup>23</sup>

## **b - Communications sent to United Nations Special Procedures and other mechanisms for the protection of human rights defenders**

The UN Special Rapporteurs on the promotion and protection of the freedom of opinion and expression and on the right to freedom of peaceful assembly and association also came together to issue a public statement to urge the Mexican government to counter the smear campaign and support rights defenders.<sup>24</sup> This statement strengthened civil society's demand that the federal government publicly support human rights defenders and protect them from the smear campaigns they were victims of.

Furthermore, to give visibility to the growing levels of harassment and intimidation to which women and men human rights defenders are exposed in Mexico for reporting abuses and violations of human rights to regional and international human rights mechanisms, the CMDPDH sent a communication to the UN Secretary-General responsible for receiving reports on government retaliation against individuals and civil society organisations for cooperating with the UN, Andrew Gilmour. As a result, in his report, Andrew Gilmore regretted that in countries such as Mexico – one of the 29 countries mentioned in the report – victims and survivors of torture were criminalised and smear campaigns were undertaken to criminalise the organisations and rights defenders that support victims as well.<sup>25</sup>

## **c - Alliances with international organisations**

To increase pressure on the federal government to publicly recognise the fundamental work done to defend human rights in Mexico, various international organisations joined in solidarity with their Mexican counterparts to express their strong objection to the delegitimation and criminalisation of numerous individuals and human rights organisations.<sup>26</sup> In letters to the public, press statements and opinion articles published in Mexican newspapers,<sup>27</sup> they demanded that the Government of Mexico implement measures to guarantee a safe environment for individuals and civil society organisations and end the smear and defamation campaign against them.

## **d - Coordinated action with the National Human Rights Commission to promote the defence of human rights in Mexico**

In view of the federal government's indifference towards the growing wave of stigmatisation and defamation of human rights defenders, a broad group of civil society organisations engaged in active dialogue with the National Human Rights Commission (CNDH) to request that it take action to recognise the defence of human rights in the country. After months of dialogue with the institution, in October 2017, the National Ombudsman presented the "The CNDH and Human Rights Defenders" campaign.<sup>28</sup> The goal of the campaign is to give visibility, via radio and television, to the legitimate work done by human rights defenders and end the campaigns that seek to criminalise this kind of work.

## Conclusions

The reversals in foreign policy on human rights by the current administration have been based on its rejection and denial of the observations and reports of international human rights mechanisms and its questioning and discrediting of the methodologies and sources used by the international bodies' members to elaborate their reports.

The federal government's main argument is that the international mechanisms' reports do not give the same importance to the advances that the Mexican government has made on the national human rights agenda. This interpretation reflects the government's self-indulgent expectations *vis-à-vis* the cooperation of international human rights bodies and does not contribute in any way to the construction of a sustainable human rights agenda. Similarly, its questioning of the impartiality and professionalism of the human right mechanisms and its suggestion that the observations they issued were not thoroughly verified or soundly justified is an affront to the United Nations and Inter-American systems for the protection of human rights.

What is also concerning is the negative impacts of the turnaround in foreign policy on human rights on the work to defend human rights in the country. The government's dismissal of the existence of a human rights crisis in Mexico and its challenging of the international human rights bodies' reports also discredits the work of civil society organisations and human rights defenders who document human rights violations first hand and who – in view of national bodies' incapacity to protect, respect, punish and remedy – decide to appeal to international bodies in search of justice.

Furthermore, the federal government persistently uses a narrative to evade its international obligations to respect, protect and guarantee rights and then to link the atrocious crimes to organised crime groups.

This policy puts human rights defenders, who contribute to the development of international human rights law on a daily basis, at risk. The government's confrontation and questioning of international human rights bodies is also an affront to women and men human rights defenders who turn to these bodies in search of justice because of the indifference of the state. This has generated an unfavourable environment for the defence of human rights that places the legitimate work carried out by human rights defenders at the federal and state level increasingly in danger. Even so, human rights defenders and civil society organisations are developing increasingly innovative ways to legitimise their work abroad and defuse the hostility towards them.

More and more, Mexican civil society organisations are coordinating their work and strategies to give greater international visibility to the serious human rights situation in the country and to build alliances with a diverse range of national and international actors. This helps to shield their work to denounce the situation and to reverse the setbacks in Mexico's current policy on human rights.

## NOTES

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