

# **MEXICO 2017 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Mexico, which has 32 states, is a multiparty federal republic with an elected president and bicameral legislature. In 2012 President Enrique Peña Nieto of the Institutional Revolutionary Party won election to a single six-year term in elections observers considered free and fair. Citizens elected members of the Senate in 2012 and members of the Chamber of Deputies in 2015. Observers considered the June 2016 gubernatorial elections free and fair.

Civilian authorities generally maintained effective control over the security forces.

The most significant human rights issues included involvement by police, military, and other state officials, sometimes in coordination with criminal organizations, in unlawful killings, disappearances, and torture; harsh and life-threatening prison conditions in some prisons; arbitrary arrests and detentions; intimidation and corruption of judges; violence against journalists by government and organized criminal groups; violence against migrants by government officers and organized criminal groups; corruption; lethal violence and sexual assault against institutionalized persons with disabilities; lethal violence against members of the indigenous population and against lesbian, gay, bisexual, transgender, and intersex persons; and lethal violence against priests by criminal organizations.

Impunity for human rights abuses remained a problem, with extremely low rates of prosecution for all forms of crimes.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were reports the government or its agents committed arbitrary or unlawful killings, often with impunity. Organized criminal groups also were implicated in numerous killings, acting with impunity and at times in league with corrupt federal, state, local, and security officials. The National Human Rights Commission (CNDH) reported 24 complaints of “deprivation of life” between January and December 15.

In May the Ministry of National Defense (SEDENA) arrested and immediately transferred to civilian authorities a military police officer accused of the May 3 unlawful killing of a man during a confrontation in Puebla between soldiers and a gang of fuel thieves. No trial date had been set at year's end.

The civilian trial that started in 2016 continued for the commander of the 97th Army Infantry Battalion and three other military officers who were charged in 2016 for the illegal detention and extrajudicial killing in 2015 of seven suspected members of an organized criminal group in Calera, Zacatecas.

A federal investigation continued at year's end in the 2015 Tanhuato, Michoacan, shooting in which federal police were accused of executing 22 persons after a gunfight and of tampering with evidence. An August 2016 CNDH recommendation stated excessive use of force resulted in the execution of at least 22 individuals. The CNDH also reported that two persons had been tortured, police gave false reports regarding the event, and the crime scene had been altered. Security Commissioner Renato Sales claimed the use of force by police at Tanhuato was justified and proportional to the threat they faced and denied the killings were arbitrary executions. The CNDH called for an investigation by the Attorney General's Office, expanded human rights training for police, and monetary compensation for the families of the 22 victims. No federal police agents were charged.

Authorities made no additional arrests in connection with the 2015 killing of 10 individuals and illegal detentions and injury to a number of citizens in Apatzingan, Michoacan.

On August 1, a judge ordered federal authorities to investigate whether army commanders played a role in the 2014 killings of 22 suspected criminals in Tlatlaya, Mexico State. In his ruling the judge noted that the federal Attorney General's Office had failed to investigate a purported military order issued before the incident in which soldiers were urged to "take down criminals under cover of darkness." In January a civilian court convicted four Mexico State attorney general's office investigators on charges of torture, also pertaining to the Tlatlaya case. In 2016 a civilian federal court acquitted seven military members of murder charges, citing insufficient evidence. In 2015 the Sixth Military Court convicted one soldier and acquitted six others on charges of military disobedience pertaining to the same incident. Nongovernmental organizations (NGOs) expressed concerns regarding the lack of convictions in the case and the perceived failure to investigate the chain of command.

On October 17, the Federal Police developed a use of force protocol. The protocol instructs federal police to use force in a “rational, proportional manner, with full respect for human rights.”

Criminal organizations carried out human rights abuses and widespread killings throughout the country, sometimes in coordination with state agents.

As of November 20, according to media reports, families of disappeared persons and authorities had discovered more than 1,588 clandestine mass graves in 23 states. For example, in March, 252 human skulls were found in a mass grave in Colinas de Santa Fe, Veracruz. From January 2006 through September 2016, the CNDH reported that more than 850 mass graves were identified throughout the country. Civil society groups noted that there were few forensic anthropology efforts underway to identify remains.

## **b. Disappearance**

There were reports of forced disappearances--the secret abduction or imprisonment of a person--by security forces and of many forced disappearances related to organized criminal groups, sometimes with allegations of state collusion. In its data collection, the government often merged statistics on forcibly disappeared persons with missing persons not suspected of being victims of forced disappearance, making it difficult to compile accurate statistics on the extent of the problem.

Federal law prohibits forced disappearances, but laws relating to forced disappearances vary widely across the 32 states, and not all classify “forced disappearance” as distinct from kidnapping.

Investigation, prosecution, and sentencing for the crime of forced disappearance were rare. The CNDH registered 19 cases of alleged forced disappearances through December 15.

There were credible reports of police involvement in kidnappings for ransom, and federal officials or members of the national defense forces were sometimes accused of perpetrating this crime. The government’s statistics agency (INEGI) estimated that 94 percent of crimes were either unreported or not investigated and that underreporting of kidnapping may have been even higher.

In January, five sailors were charged by civilian prosecutors for illegal detention of a man in Mexico State. No trial date had been set at year's end. In July the Ministry of the Navy (SEMAR) arrested and transferred to civilian authorities seven sailors for their alleged involvement in a series of kidnappings.

On November 16, the president signed into law the General Law on Forced Disappearances after three years of congressional debate. The law establishes criminal penalties for persons convicted, stipulating 40 to 90 years' imprisonment for those found guilty of the crime of forced disappearance, and provides for the creation of a National System for the Search of Missing Persons, a National Forensic Data Bank, an Amber Alert System, and a National Search Commission.

The CNDH registered 19 cases of alleged forced disappearances through December 15. In an April report on disappearances, the CNDH reported 32,236 registered cases of disappeared persons through September 2016. According to the CNDH, 83 percent of cases were concentrated in the following states: Tamaulipas, Mexico State, Sinaloa, Nuevo Leon, Chihuahua, Coahuila, Sonora, Guerrero, Puebla, and Michoacan.

As of April 30, according to the National Registry of Missing Persons, 31,053 individuals were recorded as missing or disappeared. Tamaulipas was the state with the most missing or disappeared persons at 5,657, followed by Mexico State at 3,754 and Jalisco with 2,754. Men represented 74 percent of those disappeared, according to the database.

As of August the deputy attorney general for human rights was investigating 943 cases of disappeared persons. The federal Specialized Prosecutor's Office for the Search of Missing Persons had opened cases for 747 victims; the Unit for the Investigation of Crimes against Migrants had opened cases for 143 victims; the Iguala Case Investigation Office had opened cases for 43 victims; and the special prosecutor for violence against women and trafficking in persons had opened cases for 10 victims.

At the state level, in March, Jalisco state authorities announced the creation of the specialized attorney general's office for disappeared persons. As of May 31, the Jalisco Amber Alert system for missing minors had been used 964 times (since its inception in 2013). As of May 31, a separate Jalisco Alba Alert system to report the disappearance of a woman or girl had been employed more than 1,200 times since its inception in April 2016.

In June the state government of Chihuahua announced the creation of a specialized attorney general's office for grave human rights violations, including enforced disappearances. According to a local NGO, the Center for Women's Human Rights (CEDEHM), Chihuahua was one of the states with the highest numbers of enforced disappearances, with more than 1,870 victims as of May 2016. During the year the state also signed a memorandum of understanding with a group of independent forensics experts from Argentina to analyze human remains found in the municipalities of Cuauhtemoc, Carichi, and Cusihiuriachi and to gather DNA.

The Coahuila governor's office and state attorney general's office formed a joint working group early in the year to improve the state's unit for disappearances, collaborating with the local NGO Fray Juan de Larios to build the first registry of disappeared persons in Coahuila. The governor met monthly with families of the disappeared. Coahuila state prosecutors continued to investigate forced disappearances between 2009 and 2012 by the Zetas transnational criminal organization. These disappearances, carried out in collusion with some state officials and municipal police, occurred in the border towns of Piedras Negras, Allende, and Nava. State prosecutors executed 18 arrest warrants in the Allende massacre, including 10 for former police officials. Separately, they issued 19 arrest warrants for officials from the Piedras Negras state prison accused of allowing a transnational criminal organization to use the prison as a base to kill and incinerate victims.

Local human rights NGOs criticized the state's response, saying most of those arrested were set free by courts after the state erred by filing kidnapping charges against the accused rather than charges of forced disappearance. A coalition of Coahuila-based human rights NGOs, many of them backed by the Roman Catholic diocese of Saltillo, filed a communique with the International Criminal Court in the Hague stating that state-level government collusion with transnational criminal organizations had resulted in massive loss of civilian life between 2009 and 2012, during the administration of then governor Humberto Moreira. They further stated that between 2012 and 2016, during the administration of then governor Ruben Moreira (brother of Humberto), state security authorities committed crimes against humanity in their fight against the Zetas, including unjust detention and torture. In July the state government disputed these findings and produced evidence of its investigations into these matters.

In a study of forced disappearances in Nuevo Leon released in June, researchers from the Latin American Faculty of Social Science's Observatory on Disappearance and Impunity, the University of Minnesota, and Oxford University

found that the 548 documented forced disappearances in the state between 2005 and 2015 were almost equally divided between those ordered by state agents (47 percent) and those ordered by criminal organizations (46 percent). Of the state agents alleged to be behind these disappearances, 35 were federal or military officials, 30 were state-level officials, and 65 were municipal officials. The study relied primarily on interviews with incarcerated gang members and family members of disappeared persons.

In May the Veracruz state government established an online database of disappearances, documenting 2,500 victims, and began a campaign to gather samples for a DNA database to assist in identification.

In 2016 the Inter-American Commission on Human Rights (IACHR) launched the follow-up mechanism agreed to by the government, the IACHR, and the families of the 43 students who disappeared in Iguala, Guerrero, in 2014. The government provided funding for the mechanism to continue the work of the group of independent experts (GIEI) that supported the investigation of the disappearances and assisted the families of the victims during their 2015-16 term. At the end of the GIEI mandate in April 2016, the experts released a final report critical of the government's handling of the case. The federal government reported it had complied with 923 of the experts' 973 recommendations. In December the government extended the GIEI mandate for an additional year.

According to information provided by the Attorney General's Office in August, authorities had indicted 168 individuals and arrested 128, including 73 police officers from the towns of Cocula and Iguala, and 55 alleged members of the Guerrero-based drug trafficking organization Guerreros Unidos connected to the Iguala case. Authorities held many of those arrested on charges related to organized crime rather than on charges related to the disappearance of the students, according to the GIEI. In 2016 authorities arrested the former police chief of Iguala, Felipe Flores, who had been in hiding since the 2014 disappearances. A 2016 CNDH report implicated federal and local police officers from nearby Huitzuco in the killings. Representatives from the Attorney General's Office, Foreign Ministry, and Interior Ministry met regularly with the families of the victims to update them on progress being made in the case. Both federal and state authorities reported they continued to investigate the case, including the whereabouts of the missing students or their remains.

In April the Follow-Up Mechanism expressed its "concern about the slow pace in the search activities and in the effective clarification of the various lines of

investigation indicated by the GIEI.” The commission also noted, “Not a single person has been prosecuted in this case for the crime of forced disappearance, and no new charges have been filed since December 2015.” The commission noted progress in “the administrative steps taken to contract the Light Detection and Ranging (LIDAR) surveying technology to be used in the search for the students, the progress made in the investigation of telephone communications, and the establishment of a timeline for taking statements from those arrested and other individuals. It also values the progress made in the investigations into possible involvement of police officers from Huitzuco.” In July the IACHR Office of the Special Rapporteur for Freedom of Expression expressed concern regarding alleged spying that targeted “at least one member of the GIEI” along with human rights defenders and journalists.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits torture and other cruel, inhuman, or degrading treatment or punishment, and confessions obtained through illicit means are not admissible as evidence in court. Despite these prohibitions, there were reports of torture and other illegal punishments.

As of November 30, the CNDH registered 85 complaints of torture. NGOs stated that in some cases the CNDH misclassified torture as inhuman or degrading treatment.

Fewer than 1 percent of federal torture investigations resulted in prosecution and conviction, according to government data. The Attorney General’s Office conducted 13,850 torture investigations between 2006 and 2016, and authorities reported 31 federal convictions for torture during that period. Congress approved and the president signed the General Law to Prevent, Investigate, and Punish Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment that entered into force on June 26. Human rights groups and the OHCHR commended the law, which establishes an “absolute prohibition” on the use of torture “in any circumstance,” assigns command responsibility, sets a sentence of up to 20 years’ imprisonment for convicted government officials and of up to 12 years’ imprisonment for convicted nonofficials, stipulates measures to prevent obstruction of internal investigations, and envisions a national mechanism to prevent torture and a national registry maintained by the Office of the Attorney General.

The law also eliminates the requirement that formal criminal charges be filed before a complaint of torture may be entered in the national registry, adds higher penalties for conviction of torturing “vulnerable” classes of victims (women and persons with disabilities), permits federal investigation of state cases of torture when an international body has ruled on the case or if the victim so requests, and eliminates requirements that previously prevented judges from ordering investigations into torture.

In 2015 the Attorney General’s Office created the *Detainee Consultation System* website to allow the public to track the status of detainees in the federal penitentiary system, including their physical location, in real time. The office collaborated with all 32 states on implementation of the system at the state and federal level, and the site was visited on average 476 times a day. The states that were farthest along in implementing the system were Campeche, Mexico City, Coahuila, Mexico State, Jalisco, Nuevo Leon, Michoacan, Puebla, Queretaro, and Tlaxcala.

On March 30, the Quintana Roo attorney general’s office apologized to Hector Casique, who was tortured and wrongly convicted of multiple counts of homicide in 2013 during a previous state administration. In September 2016 Casique was released from prison. On June 9, he was killed by unknown assailants.

On August 22, a state judge acquitted and ordered the release of Maria del Sol Vazquez Reyes after nearly five years of imprisonment for conviction of crimes that the court found she was forced to confess under torture by the former investigation agency of the Veracruz state police. The officers who tortured her had not been charged by year’s end.

In May in Chihuahua, prosecutor Miguel Angel Luna Lopez was suspended after a video from 2012 became public that showed him interrogating two suspects with bandaged faces. Luna was reinstated as a police agent while the investigation continued. Also in Chihuahua, in January a former municipal police officer, Erick Hernandez Mendoza, was formally charged with torturing a housekeeper who was suspected of stealing from her employer. Two other police officers who allegedly took part in her torture were not charged.

### **Prison and Detention Center Conditions**

Conditions in prisons and detention centers could be harsh and life threatening due to corruption; overcrowding; abuse; inmate violence; alcohol and drug addiction;

inadequate health care, sanitation, and food; comingling of pretrial and convicted persons; and lack of security and control.

Physical Conditions: According to a CNDH report, state detention centers suffered from “uncontrolled self-government in aspects such as security and access to basic services, violence among inmates, lack of medical attention, a lack of opportunities for social reintegration, a lack of differentiated attention for groups of special concern, abuse by prison staff, and a lack of effective grievance mechanisms.” Some of the most overcrowded prisons were plagued by riots, revenge killings, and jailbreaks. Criminal gangs often held de facto control inside prisons.

Health and sanitary conditions were often poor, and most prisons did not offer psychiatric care. Some prisons were staffed with poorly trained, underpaid, and corrupt correctional officers, and authorities occasionally placed prisoners in solitary confinement indefinitely. Authorities held pretrial detainees together with convicted criminals. The CNDH noted the lack of access to adequate health care was a significant problem. Food quality and quantity, heating, ventilation, and lighting varied by facility, with internationally accredited prisons generally having the highest standards.

A CNDH report in June noted many of the prisons, particularly state-run correctional facilities, were unsafe, overcrowded, and understaffed. It surveyed conditions at more than 190 state, local, and federal facilities and found inmates often controlled some areas of prisons or had contraband inside. The report cited insufficient staff, unsafe procedures, and poor medical care at many facilities. Inmates staged mass escapes, battled each other, and engaged in shootouts using guns that police and guards smuggled into prison. A report released in March by the National Security Commission stated that 150 federal and state prisons were overcrowded and exceeded capacity by 17,575 prisoners.

On July 31, INEGI released its first National Survey on Population Deprived of Freedom 2016, based on a survey of 211,000 inmates in the country’s 338 state and federal penitentiaries. The survey revealed that 87 percent of prison inmates reported bribing guards for items such as food, making telephone calls, or obtaining a blanket or mattress. Another survey of 64,000 prisoners revealed that 36 percent reported paying bribes to other inmates, who often controlled parts of penitentiaries. Fifty percent of prisoners said they paid bribes to be allowed to have appliances in their cells, and 26 percent said they paid bribes to be allowed to have electronic communications devices, including cell phones, which were banned in many prisons.

The CNDH reported conditions for female prisoners were inferior to those for men, due to a lack of appropriate living facilities and specialized medical care. The CNDH found several reports of sexual abuse of inmates in the State of Mexico's Nezahualcoyotl Bordo de Xochiaca Detention Center. Cases of sexual exploitation of inmates were also reported in Mexico City and the states of Chihuahua, Coahuila, Guerrero, Nayarit, Nuevo Leon, Oaxaca, Puebla, Quintana Roo, Sinaloa, Sonora, Tamaulipas, and Veracruz.

The CNDH reported 86 homicides and 26 suicides in state and district prisons in 2016. Fourteen states did not report information regarding homicides and suicides to the CNDH. The CNDH noted in its 2016 report on prisons that in general prisons were not prepared to prevent or address violent situations such as suicides, homicides, fights, injuries, riots, and jailbreaks.

The state government in Tamaulipas struggled to regain control of its prisons after decades of ceding authority to prison gangs, according to media and NGO reports. Criminal organizations constantly battled for control of prisons, and numerous riots claimed more than a dozen prisoners' lives, including three foreign prisoners in the past year (two in Nuevo Laredo, one in Ciudad Victoria). On April 18, an inspection at the prison in Ciudad Victoria uncovered four handguns, two AK-47s, one hand grenade, and 108 knives. On June 6, a riot at the same facility claimed the lives of three state police officers and four inmates. On July 31, the official in charge of the prisons in Tamaulipas, Felipe Javier Tellez Ramirez, was killed in Ciudad Victoria reportedly in retaliation for challenging the criminal gangs in the state's prison system.

Prisoner outbreaks or escape attempts also plagued Tamaulipas' prisons. On March 22, 29 prisoners escaped through a tunnel from a prison in Ciudad Victoria, Tamaulipas. On June 19, eight inmates escaped from the youth detention center in Gomez. On August 10, nine inmates were killed and 11 injured in an inmate fight at a prison in Reynosa where a tunnel had previously been discovered. Guards fired live ammunition to control the situation, which occurred during family visiting hours.

In June, 28 inmates were killed by their rivals at a prison in Acapulco. Three prison guards were arrested for having allowed the attackers to exit their cells to kill their rivals.

On October 9, a riot at Nuevo Leon's Cadereyta state prison was initially contained but flared up again the next day as inmates set fires. Press reports indicated one prisoner died in the fires. After three prison guards were taken hostage, state police were sent into the prison to control the situation. Official sources reported that at least 16 inmates died during the riot, some because of police action to reclaim control of the prison. This was the fifth lethal riot at a Nuevo Leon prison since 2016.

Civil society groups reported abuses of migrants in some migrant detention centers. Human rights groups reported many times asylum seekers from the Northern Triangle of Central America held in detention and migrant transitory centers were subject to abuse when comingled with other migrants such as MS-13 gang members from the region. In addition migration officials reportedly discouraged persons potentially needing international assistance from applying for asylum, claiming their applications were unlikely to be approved. These conditions resulted in many potential asylum seekers and persons in need of international protection abandoning their claims (see also section 2.d.).

Administration: While prisoners and detainees could file complaints regarding human rights violations, access to justice was inconsistent, and authorities generally did not release the results of investigations to the public.

Independent Monitoring: The government permitted independent monitoring of prison conditions by the International Committee of the Red Cross, the CNDH, and state human rights commissions. Independent monitors were generally limited to making recommendations to authorities to improve conditions of confinement.

Improvements: State facilities continued to seek international accreditation from the American Correctional Association, which requires demonstrated compliance with a variety of international standards. As of August 20, an additional 12 correctional facilities achieved accreditation, raising the total number of state and federal accredited facilities to 70.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, but the government sometimes failed to observe these requirements.

#### **Role of the Police and Security Apparatus**

The federal police, as well as state and municipal police, have primary responsibility for law enforcement and the maintenance of order. The federal police are under the authority of the interior secretary and the National Security Commission, state police are under the authority of the state governors, and municipal police are under the authority of local mayors. SEDENA and SEMAR also play a role in domestic security, particularly in combatting organized criminal groups. Article 89 of the constitution grants the president the authority to use the armed forces for the protection of internal and national security, and the courts have upheld the legality of the armed forces' role in undertaking these activities in support of civilian authorities. The National Migration Institute (INM), under the authority of the Interior Ministry, is responsible for enforcing migration laws and protecting migrants.

On December 21, the president signed the Law on Internal Security, which provides a more explicit legal framework for the role the military had been playing for many years in public security. The law authorizes the president to deploy the military to the states at the request of civilian authorities to assist in policing. The law subordinates civilian law enforcement operations to military authority in some instances and allows the president to extend deployments indefinitely in cases of "grave danger." Upon signing the law, President Peña Nieto publicly affirmed he would not seek to implement it until the Supreme Court had the opportunity to review any constitutional challenges to the new law. At year's end, no challenges had been submitted to the Supreme Court. The law passed despite the objections of the CNDH, the Catholic archdiocese, some civil society organizations, the IACHR, and various UN bodies and officials, including the UN High Commissioner for Human Rights, who argued that it could further militarize citizen security and exacerbate human rights abuses. The government argued the law would in fact serve to limit the military's role in law enforcement by establishing command structures and criteria for deployments. Military officials had long sought to strengthen the legal framework for the domestic operations they have been ordered by civilian authorities to undertake. Proponents of the law also argued that since many civilian police organizations were unable to cope with public security challenges unaided, the law merely clarified and strengthened the legal framework for what was a practical necessity. Many commentators on both sides of the argument regarding the law contended that the country still had not built civilian law enforcement institutions capable of ensuring citizen security.

The law requires military institutions to transfer all cases involving civilian victims, including human rights cases, to civilian prosecutors to pursue in civilian

courts. There are exceptions, as when both the victim and perpetrator are members of the military, in which case the matter is dealt with by the military justice system. SEDENA, SEMAR, the federal police, and the Attorney General's Office have security protocols for the transfer of detainees, chain of custody, and use of force. The protocols, designed to reduce the time arrestees remain in military custody, outline specific procedures for handling detainees.

As of August the Attorney General's Office was investigating 138 cases involving SEDENA or SEMAR officials suspected of abuse of authority, torture, homicide, and arbitrary detention. Military tribunals have no jurisdiction over cases with civilian victims, which are the exclusive jurisdiction of civilian courts.

Although civilian authorities maintained effective control over security forces and police, impunity, especially for human rights abuses, remained a serious problem. The frequency of prosecution for human rights abuse was extremely low.

Military officials withheld evidence from civilian authorities in some cases. Parallel investigations by military and civilian officials of human rights violations complicated prosecutions due to loopholes in a 2014 law that granted civilian authorities jurisdiction to investigate violations committed by security forces. Of 505 criminal proceedings conducted between 2012 and 2016, the Attorney General's Office won only 16 convictions, according to a November report by the Washington Office on Latin America citing official figures, which also indicated that human rights violations had increased in tandem with the militarization of internal security. The Ministry of Foreign Relations acknowledged the report, stated that the problems stemmed from the conflict with drug-trafficking organizations, as well as the proliferation of illegal weapons, and emphasized that the military's role in internal security was only a temporary measure.

On November 16, women of the Atenco case testified before the Inter-American Court of Human Rights and called for the court to conduct an investigation into the case. The 2006 San Salvador Atenco confrontation between local vendors and state and federal police agents in Mexico State resulted in two individuals being killed and more than 47 women taken into custody, with many allegedly sexually tortured by police officials. In 2009 an appeals court reversed the sole conviction of a defendant in the case.

SEDENA's General Directorate for Human Rights investigates military personnel for violations of human rights identified by the CNDH and is responsible for promoting a culture of respect for human rights within the institution. The

directorate, however, has no power to prosecute allegations of rights violations or to take independent judicial action.

### **Arrest Procedures and Treatment of Detainees**

The constitution allows any person to arrest another if the crime is committed in his or her presence. A warrant for arrest is not required if an official has direct evidence regarding a person's involvement in a crime, such as having witnessed the commission of a crime. This arrest authority, however, is only applicable in cases involving serious crimes in which there is risk of flight. Bail is available for most crimes, except for those involving organized crime and a limited number of other offenses. In most cases the law provides for detainees to appear before a judge for a custody hearing within 48 hours of arrest during which authorities must produce sufficient evidence to justify continued detention, but this requirement was not followed in all cases, particularly in remote areas of the country. In cases involving organized crime, the law allows authorities to hold suspects for up to 96 hours before they must seek judicial review.

The procedure known in Spanish as "arraigo" (a constitutionally permitted form of detention, employed during the investigative phase of a criminal case before probable cause is fully established) allows, with a judge's approval, for certain suspects to be detained for up to 80 days prior to the filing of formal charges. Under the new accusatory system, arraigo has largely been abandoned.

Some detainees complained of a lack of access to family members and to counsel after police held persons incommunicado for several days and made arrests arbitrarily without a warrant. Police occasionally failed to provide impoverished detainees access to counsel during arrest and investigation as provided for by law, although the right to public defense during trial was generally respected. Authorities held some detainees under house arrest.

Arbitrary Arrest: Allegations of arbitrary detentions persisted throughout the year. The IACHR, the UN Working Group on Arbitrary Detention, and NGOs expressed concerns regarding arbitrary detention and the potential for arbitrary detention to lead to other human rights abuses.

A July report by Amnesty International reported widespread use of arbitrary detention by security forces.

Pretrial Detention: Lengthy pretrial detention was a problem, although NGOs such as the Institute for Economics and Peace credited the transition to the accusatory justice system (completed in 2016) with reducing its prevalence. A 2015 IACHR report showed that 42 percent of individuals detained were in pretrial detention. The law provides time limits on pretrial detention, but authorities sometimes failed to comply with them, since caseloads far exceeded the capacity of the federal judicial system. Violations of time limits on pretrial detention were also endemic in state judicial systems.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons who are arrested or detained, whether on criminal or other grounds, may challenge their detention through a writ of habeas corpus. The defense may argue, among other things, that the accused did not receive proper due process, suffered a human rights abuse, or had his or her basic constitutional rights violated. By law individuals should be promptly released and compensated if their detention is found to be unlawful, but authorities did not always promptly release those unlawfully detained. In addition, under the criminal justice system, defendants apprehended during the commission of the crime may challenge the lawfulness of their detention during their court hearing.

#### **e. Denial of Fair Public Trial**

Although the constitution and law provide for an independent judiciary, court decisions were susceptible to improper influence by both private and public entities, particularly at the state and local level, as well as by transnational criminal organizations. Authorities sometimes failed to respect court orders, and arrest warrants were sometimes ignored. Across the criminal justice system, many actors lacked the necessary training and resources to carry out their duties fairly and consistently in line with the principle of equal justice.

#### **Trial Procedures**

In 2016 all civilian and military courts officially transitioned from an inquisitorial legal system based primarily upon judicial review of written documents to an accusatory trial system reliant upon oral testimony presented in open court. In some states alternative justice centers employed mechanisms such as mediation, negotiation, and restorative justice to resolve minor offenses outside the court system.

Under the accusatory system, all hearings and trials are conducted by a judge and follow the principles of public access and cross-examination. Defendants have the right to a presumption of innocence and to a fair and public trial without undue delay. Defendants have the right to attend the hearings and to challenge the evidence or testimony presented. Defendants may not be compelled to testify or confess guilt. The law also provides for the rights of appeal and of bail in many categories of crimes. The law provides defendants with the right to an attorney of their choice at all stages of criminal proceedings. By law attorneys are required to meet professional qualifications to represent a defendant. Not all public defenders were qualified, however, and often the state public defender system was understaffed and underfunded. Administration of public defender services was the responsibility of either the judicial or executive branch, depending on the jurisdiction. According to the Center for Economic Research and Economic Teaching, most criminal suspects did not receive representation until after their first custody hearing, thus making individuals vulnerable to coercion to sign false statements prior to appearing before a judge.

Defendants have the right to free assistance of an interpreter if needed, although interpretation and translation services into indigenous languages at all stages of the criminal process were not always available. Indigenous defendants who did not speak Spanish sometimes were unaware of the status of their cases and were convicted without fully understanding the documents they were instructed to sign.

The lack of federal rules of evidence caused confusion and led to disparate judicial rulings.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Citizens have access to an independent judiciary in civil matters to seek civil remedies for human rights violations. For a plaintiff to secure damages against a defendant, authorities first must find the defendant guilty in a criminal case, a significant barrier in view of the relatively low number of convictions for civil rights offenses.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such practices and requires search warrants. There were some complaints of illegal searches or illegal destruction of private property.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The law provides for freedom of expression, including for the press, and the government generally respected this right. Most newspapers, television, and radio stations had private ownership. The government had minimal presence in the ownership of news media but remained the main source of advertising revenue, which at times influenced coverage. Media monopolies, especially in small markets, could constrain freedom of expression.

Violence and Harassment: Journalists were subject to physical attacks, harassment, and intimidation (especially by state agents and transnational criminal organizations) due to their reporting. This created a chilling effect that limited media's ability to investigate and report, since many of the reporters who were killed covered crime, corruption, and local politics. During the year more journalists were killed because of their reporting than in any previous year. The OHCHR recorded 15 killings of reporters, and Reporters Without Borders identified evidence that the killing of at least 11 reporters was directly tied to their work.

Perpetrators of violence against journalists acted with impunity, which fueled further attacks. According to Article 19, a press freedom NGO, the impunity rate for crimes against journalists was 99.7 percent. The 276 attacks against journalists in the first six months of the year represented a 23 percent increase from the same period in 2016. Since its creation in 2010, the Office of the Special Prosecutor for Crimes Against Journalists (FEADLE), a unit of the Attorney General's Office, won only two convictions in more than 800 cases it pursued. During the year there was only one conviction for the murder of a journalist at the local level. In February a court in Oaxaca convicted and sentenced a former police officer to 30 years' imprisonment for the 2016 murder of journalist Marcos Hernandez Bautista. The OHCHR office in Mexico publicly condemned the failure to prosecute crimes against journalists.

Government officials believed organized crime to be behind most of these attacks, but NGOs asserted there were instances when local government authorities

participated in or condoned the acts. An April report by Article 19 noted 53 percent of cases of aggression against journalists in 2016 originated with public officials. Although 75 percent of those came from state or local officials, federal officials and members of the armed forces were also suspected of being behind attacks.

In April the government of Quintana Roo offered a public apology to journalist Pedro Canche, who was falsely accused by state authorities of sabotage and detained for nine months in prison.

According to Article 19, 11 journalists were killed between January 1 and October 15. For example, on March 23, Miroslava Breach, correspondent for the daily newspapers *La Jornada* and *El Norte de Chihuahua*, was shot eight times and killed as she was preparing to take her son to school in Chihuahua City. Many of her publications focused on political corruption, human rights abuses, attacks against indigenous communities, and organized crime. According to the Committee to Protect Journalists (CPJ), she was the only national correspondent to cover the troubled Sierra Tarahumara indigenous region. On December 25, federal police made an arrest in the case of an individual linked to a branch of the Sinaloa cartel who they stated was the mastermind of the crime. Breach's family told *La Jornada* newspaper they did not believe the suspect in custody was behind the killing, which they attributed to local politicians who had previously threatened the reporter.

On May 15, Javier Valdez, founder of *Riodoce* newspaper in Sinaloa, winner of a 2011 CPJ prize for heroic journalism and outspoken defender of press freedom, was shot and killed near his office in Culiacan, Sinaloa.

During the first six months of the year, the National Mechanism to Protect Human Rights Defenders and Journalists received 214 requests for protection, an increase of 143 percent from 2016. Since its creation in 2012 through July, the mechanism accepted 589 requests for protection. On August 22, a journalist under the protection of the mechanism, Candido Rios, was shot and killed in the state of Veracruz. Following the wave of killings in early May, the president replaced the special prosecutor for crimes against freedom of expression at the Attorney General's Office and held a televised meeting with state governors and attorneys general to call for action in cases of violence against journalists. NGOs welcomed the move but expressed concern regarding shortcomings, including the lack of an official protocol to handle journalist killings despite the appointment of the special prosecutor. NGOs maintained that the special prosecutor had not used his office's

authorities to take charge of cases in which state prosecutors had not produced results.

Censorship or Content Restrictions: Human rights groups reported state and local governments in some parts of the country worked to censor the media and threaten journalists. In June the *New York Times* newspaper reported 10 Mexican journalists and human rights defenders were targets of an attempt to infiltrate their smartphones through an Israeli spyware program called Pegasus that was sold only to governments, citing a forensic investigation by Citizen Lab at the University of Toronto. Officials at the Attorney General's Office acknowledged purchasing Pegasus but claimed to have used it only to monitor criminals.

Journalists reported altering their coverage in response to a lack of protection from the government, attacks against members of the media and newsrooms, false charges of “publishing undesirable news,” and threats or retributions against their families, among other reasons. There were reports of journalists practicing self-censorship because of threats from criminal groups and of government officials seeking to influence or pressure the press, especially in the states of Tamaulipas and Sinaloa.

Libel/Slander Laws: There are no federal laws against defamation, libel, or slander, but local laws remain in eight states. Five states have laws that restrict the use of political caricatures or “memes.” These laws were seldom applied.

Nongovernmental Impact: Organized criminal groups exercised a grave and increasing influence over media outlets and reporters, threatening individuals who published critical views of crime groups. Concerns persisted regarding the use of physical violence by organized criminal groups in retaliation for information posted online, which exposed journalists, bloggers, and social media users to the same level of violence faced by traditional journalists.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or block or filter online content. Freedom House's 2016 *Freedom on the Net* report categorized the country's internet as partly free, noting an increase in government requests to social media companies to remove content.

Some civil society organizations alleged that various state and federal agencies sought to monitor private online communications. NGOs alleged that provisions in

secondary laws threatened the privacy of internet users by forcing telecommunication companies to retain data for two years, providing real-time geolocation data to police, and allowing authorities to obtain metadata from private communications companies without a court order. Furthermore, the law does not fully define the “appropriate authority” to carry out such actions. Despite civil society pressure to nullify the government’s data retention requirements and real-time geolocation provisions passed in 2014, the Supreme Court upheld those mechanisms. The court, however, noted the need for authorities to obtain a judicial warrant to access users’ metadata.

In June the government stated it was opening a criminal investigation to determine whether prominent journalists, human rights defenders, and anticorruption activists were subjected to illegal surveillance via sophisticated surveillance malware.

INEGI estimated 59 percent of citizens over age five had access to the internet.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedoms of Peaceful Assembly and Association**

The law provides for the freedoms of peaceful assembly and association, and the government generally respected these rights. There were some reports of security forces using excessive force against demonstrators. Twelve states have laws that restrict public demonstrations.

### **c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection

and assistance to refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

The government and press reports noted a marked increase in refugee and asylum applications during the previous year. UNHCR projected the National Refugee Commission (COMAR) would receive 20,000 asylum claims by the end of the year, compared with 8,788 in 2016. COMAR projected lower numbers, noting that as of June 30, it had received 6,816 petitions.

At the Iztapalapa detention center near Mexico City, the Twenty-First Century detention center in Chiapas, and other detention facilities, men were kept separate from women and children, and there were special living quarters for lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals. Migrants had access to medical, psychological, and dental services, and the Iztapalapa center had agreements with local hospitals to care for any urgent cases free of charge. Individuals from countries with consular representation also had access to consular services. COMAR and CNDH representatives visited daily, and other established civil society groups were able to visit the detention facilities on specific days and hours. Victims of trafficking and other crimes were housed in specially designated shelters. Human rights pamphlets were available in many different languages. In addition approximately 35 centers cooperated with UNHCR and allowed it to put up posters and provide other information on how to access asylum for those in need of international protection.

Abuse of Migrants, Refugees, and Stateless Persons: The press and NGOs reported victimization of migrants by criminal groups and in some cases by police and immigration officers and customs officials. Government and civil society sources reported Central American gang presence spread farther into the country and threatened migrants who had fled the same gangs in their home countries. An August report by the independent INM Citizens' Council found incidents in which immigration agents had been known to threaten and abuse migrants to force them to accept voluntary deportation and discourage them from seeking asylum. The council team visited 17 detention centers across the country and reported threats, violence, and excessive force against undocumented migrants. The INM responded to these allegations by asserting it treated all migrants with "absolute respect."

There were media reports that criminal groups kidnapped undocumented migrants to extort money from migrants' relatives or force them into committing criminal acts on their behalf.

In March the federal government began operating the Crimes Investigation Unit for Migrants and the Foreign Support Mechanism of Search and Investigation. The International Organization for Migration collaborated with municipal governments to establish offices along the border with Guatemala to track and assist migrants.

In-country Movement: There were numerous instances of armed groups limiting the movements of migrants, including by kidnappings and homicides.

### **Internally Displaced Persons (IDPs)**

The Internal Displacement Monitoring Center estimated that as of 2016, there were at least 311,000 IDPs who had fled their homes and communities in response to criminal, political, and religiously motivated violence as well as natural disasters. In 2016 the CNDH released a report stating 35,433 IDPs were displaced due to drug trafficking violence, interreligious conflicts, and land disputes. At approximately 20,000, Tamaulipas reportedly had the highest number of IDPs followed by 2,165 in Guerrero and 2,008 in Chihuahua. NGOs estimated hundreds of thousands of citizens, many fleeing areas of armed conflict among organized criminal groups, or between the government and organized criminal groups, became internally displaced. The government, in conjunction with international organizations, made efforts to promote the safe, voluntary return, resettlement, or local integration of IDPs.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status and complementary protection, and the government has an established procedure for determining refugee status and providing protection to refugees. As of August COMAR had received 8,703 petitions, of which 1,007 had been accepted for review, 1,433 were marked as abandoned, 1,084 were not accepted as meeting the criteria, and 385 were accepted for protection. According to NGOs, only one-third of applicants was approved and the remaining two-thirds classified as economic migrants not meeting the legal requirements for asylum; applicants abandoned some petitions. NGOs reported bribes sometimes influenced the adjudication of asylum petitions and requests for transit visas.

The government worked with UNHCR to improve access to asylum and the asylum procedure, reception conditions for vulnerable migrants and asylum seekers, and integration (access to school and work) for those approved for refugee

and complementary protection status. UNHCR also doubled the capacity of COMAR by funding an additional 36 staff positions.

### **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government through free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: Observers considered the June gubernatorial races in three states; local races in six states; and the 2016 gubernatorial, 2015 legislative, and 2012 presidential elections to be free and fair.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate. The law provides for the right of indigenous persons to elect representatives to local office according to “uses and customs” law rather than federal and state electoral law.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for conviction of official corruption, but the government did not enforce the law effectively. There were numerous reports of government corruption during the year. Corruption at the most basic level involved paying bribes for routine services or in lieu of fines to administrative officials or security forces. More sophisticated and less apparent forms of corruption included funneling funds to elected officials and political parties by overpaying for goods and services.

Although by law elected officials enjoy immunity from prosecution while holding public office, state and federal legislatures have the authority to waive an official’s immunity. As of August more than one-half of the 32 states followed this legal procedure to strip immunity, and almost all other states were taking similar steps.

By law all applicants for federal law enforcement jobs (and other sensitive positions) must pass an initial vetting process and be recleared every two years. According to the Interior Ministry and the National Center of Certification and Accreditation, most active police officers at the national, state, and municipal levels underwent at least initial vetting. The press and NGOs reported that some

police officers who failed vetting remained on duty. The CNDH reported that some police officers, particularly at the state and local level, were involved in kidnapping, extortion, and providing protection for, or acting directly on behalf of, organized crime and drug traffickers.

On July 19, the National Anticorruption System, signed into law by the president in 2016, entered into force. The law gives autonomy to federal administrative courts to investigate and sanction administrative acts of corruption, establishes harsher penalties for government officials convicted of corruption, provides the Superior Audit Office (ASF) with real-time auditing authority, and establishes an oversight commission with civil society participation. Observers hailed the legislation as a major achievement in the fight against corruption but criticized a provision that allows public servants an option not to declare their assets. A key feature of the system is the creation of an independent anticorruption prosecutor and court. The Senate had yet to appoint the special prosecutor at year's end.

Corruption: In July the Attorney General's Office took custody of former governor of Veracruz Javier Duarte, who had gone into hiding in Guatemala and was facing corruption charges. The government was also seeking the extradition from Panama of former governor of Quintana Roo Roberto Borge and issued an arrest warrant for former governor of Chihuahua Cesar Duarte. The ASF filed criminal charges with the Attorney General's Office against 14 state governments for misappropriating billions of dollars in federal funds. The ASF was also investigating several state governors, including former governors of Sonora (Guillermo Padres) and Nuevo Leon (Rodrigo Medina), both of whom faced criminal charges for corruption. The Attorney General's Office also opened an investigation against Nayarit Governor Sandoval for illicit enrichment as a result of charges brought against him by a citizens group, which also included some opposing political parties.

The NGO Mexicans Against Corruption and Impunity and media outlet Animal Politico published a report accusing Attorney General Raul Cervantes of involvement in fraud, revealing that he had registered a Ferrari vehicle valued at more than \$200,000 to an unoccupied house in an apparent effort to avoid taxes. Cervantes' attorney attributed improper registration to administrative error. On October 16, Cervantes resigned, stating the reason for his resignation was to preserve the political independence of the new prosecutor's office that was to replace the current Attorney General's Office as part of a constitutional reform.

Financial Disclosure: In 2016 the Congress passed a law requiring all federal and state-level appointed or elected officials to provide income and asset disclosure, statements of any potential conflicts of interests, and tax returns, but the law includes a provision that allows officials an option to withhold the information from the public. The Ministry of Public Administration monitors disclosures with support from each agency. Regulations require disclosures at the beginning and end of employment, as well as annual updates. The law requires declarations be made publicly available unless an official petitions for a waiver to keep his or her file private. Criminal or administrative sanctions apply for abuses. In June the Supreme Court declined a petition by opposition political parties to overturn the provision for a privacy waiver.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were mostly cooperative and responsive to their views, and the president or cabinet officials met with human rights organizations such as the OHCHR, the IACHR, and the CNDH. Some NGOs alleged that individuals who organized campaigns to discredit human rights defenders sometimes acted with tacit support from officials in government.

Government Human Rights Bodies: The CNDH is a semiautonomous federal agency created by the government and funded by the legislature to monitor and act on human rights violations and abuses. It may call on government authorities to impose administrative sanctions or pursue criminal charges against officials, but it is not authorized to impose penalties or legal sanctions. If the relevant authority accepts a CNDH recommendation, the CNDH is required to follow up with the authority to verify that it is carrying out the recommendation. The CNDH sends a request to the authority asking for evidence of its compliance and includes this follow-up information in its annual report. When authorities fail to accept a recommendation, the CNDH makes that failure known publicly and may exercise its power to call before the Senate government authorities who refuse to accept or enforce its recommendations.

All states have their own human rights commission. The state commissions are funded by the state legislatures and are semiautonomous. The state commissions did not have uniform reporting requirements, making it difficult to compare state data and therefore to compile nationwide statistics. The CNDH may take cases

from state-level commissions if it receives a complaint that the commission has not adequately investigated.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: Federal law criminalizes rape of men or women, including spousal rape, and conviction carries penalties of up to 20 years' imprisonment. Twenty-four states have laws criminalizing spousal rape.

The federal penal code prohibits domestic violence and stipulates penalties for conviction of between six months' and four years' imprisonment. Twenty-nine states stipulate similar penalties, although in practice sentences were often more lenient. Federal law does not criminalize spousal abuse. State and municipal laws addressing domestic violence largely failed to meet the required federal standards and often were unenforced.

According to the law, the crime of femicide is the murder of a woman committed because of the victim's gender and is a federal offense punishable if convicted by 40 to 60 years in prison. It is also a criminal offense in all states. The Special Prosecutor's Office for Violence against Women and Trafficking in Persons of the Attorney General's Office is responsible for leading government programs to combat domestic violence and prosecuting federal human trafficking cases involving three or fewer suspects. The office had 12 federal prosecutors dedicated to federal cases of violence against women.

In addition to shelters, there were women's justice centers that provided more services than traditional shelters, including legal services and protection; however, the number of cases far surpassed institutional capacity.

Sexual Harassment: Federal labor law prohibits sexual harassment and provides for fines from 250 to 5,000 times the minimum daily wage. Sixteen states criminalize sexual harassment, and all states have provisions for punishment when the perpetrator is in a position of power. According to the National Women's Institute (INMUJERES), the federal institution charged with directing national policy on equal opportunity for men and women, sexual harassment in the workplace was a significant problem.

Coercion in Population Control: There were few reports of coerced abortion, involuntary sterilization, or other coercive population control methods; however, forced, coerced, and involuntary sterilizations were reported, targeting mothers with HIV. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: The law provides women the same legal status and rights as men and “equal pay for equal work performed in equal jobs, hours of work, and conditions of efficiency.” Women tended to earn substantially less than men did. Women were more likely to experience discrimination in wages, working hours, and benefits.

## **Children**

Birth Registration: Children derived citizenship both by birth within the country’s territory and from one’s parents. Citizens generally registered the births of newborns with local authorities. Failure to register births could result in the denial of public services such as education or health care.

Child Abuse: There were numerous reports of child abuse. The National Program for the Integral Protection of Children and Adolescents, mandated by law, is responsible for coordinating the protection of children’s rights at all levels of government.

Early and Forced Marriage: The legal minimum marriage age is 18. Enforcement, however, was inconsistent across the states, where some civil codes permit girls to marry at 14 and boys at 16 with parental consent. With a judge’s consent, children may marry at younger ages.

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children, and authorities generally enforced the law. Nonetheless, NGOs reported sexual exploitation of minors, as well as child sex tourism in resort towns and northern border areas.

Statutory rape constitutes a crime in the federal criminal code. If an adult is convicted of having sexual relations with a minor ages 15 to 18, the penalty is between three months and four years in prison. Conviction of the crime of sexual relations with a minor under age 15 carries a sentence of eight to 30 years’ imprisonment. Laws against corruption of a minor and child pornography apply to

victims under age 18. For conviction of the crimes of selling, distributing, or promoting pornography to a minor, the law stipulates a prison term of six months to five years and a fine of 300 to 500 times the daily minimum wage. For conviction of crimes involving minors in acts of sexual exhibitionism or the production, facilitation, reproduction, distribution, sale, and purchase of child pornography, the law mandates seven to 12 years' imprisonment and a fine of 800 to 2,500 times the daily minimum wage.

Perpetrators convicted of promoting, publicizing, or facilitating sexual tourism involving minors face seven to 12 years' imprisonment and a fine of 800 to 2,000 times the daily minimum wage. For those convicted of involvement in sexual tourism who commit sexual acts with minors, the law requires a 12- to 16-year prison sentence and a fine of 2,000 to 3,000 times the daily minimum wage. Conviction of sexual exploitation of a minor carries an eight- to 15-year prison sentence and a fine of 1,000 to 2,500 times the daily minimum wage.

Institutionalized Children: Civil society groups expressed concerns regarding abuses of children with mental and physical disabilities in orphanages, migrant centers, and care facilities.

International Child Abductions: The country is party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html)*.

## **Anti-Semitism**

The 67,000-person Jewish community experienced low levels of anti-Semitism. While an Anti-Defamation League report described an increase in anti-Semitic attitudes in the country from 24 percent of the population in 2014 to 35 percent of the population in 2017, Jewish community representatives reported low levels of anti-Semitic acts and good interreligious cooperation both from the government and civil society organizations in addressing rare instances of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/)*.

## **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government did not effectively enforce the law. The law requires the Ministry of Health to promote the creation of long-term institutions for persons with disabilities in distress, and the Ministry of Social Development must establish specialized institutions to care for, protect, and house persons with disabilities in poverty, neglect, or marginalization. NGOs reported authorities had not implemented programs for community integration. NGOs reported no changes in the mental health system to create community services nor any efforts by authorities to have independent experts monitor human rights violations in psychiatric institutions.

Public buildings and facilities did not comply with the law requiring access for persons with disabilities. The education system provided special education for students with disabilities nationwide. Children with disabilities attended school at a lower rate than those without disabilities. NGOs reported employment discrimination.

Abuses in mental health institutions and care facilities, including those for children, were a problem. Abuses of persons with disabilities included lack of access to justice, the use of physical and chemical restraints, physical and sexual abuse, trafficking, forced labor, disappearances, and illegal adoption of institutionalized children. Institutionalized persons with disabilities often lacked adequate medical care and rehabilitation, privacy, and clothing and often ate, slept, and bathed in unhygienic conditions. They were vulnerable to abuse from staff members, other patients, or guests at facilities where there was inadequate supervision. Documentation supporting the person's identity and origin was lacking, and there were instances of disappearances.

As of August 25, the NGO Disability Rights International (DRI) reported that most residents had been moved to other institutions from the privately run institution Casa Esperanza, where they were allegedly victims of pervasive sexual abuse by staff and, in some cases, human trafficking. Two of the victims died within the first six months after transfer to other facilities, and the third was sexually abused. DRI stated the victim was raped repeatedly during a period of seven months at the Fundacion PARLAS I.A.P. and that another woman was physically abused at an institution in another state to which she was transferred.

Voting centers for federal elections were generally accessible for persons with disabilities, and ballots were available with a braille overlay for federal elections.

In Mexico City, voting centers for local elections were also reportedly accessible, including braille overlays, but these services were inconsistently available for local elections elsewhere in the country.

### **Indigenous People**

The constitution provides all indigenous peoples the right to self-determination, autonomy, and education. Conflicts arose from interpretation of the self-governing “uses and customs” laws used by indigenous communities. Uses and customs laws apply traditional practices to resolve disputes, choose local officials, and collect taxes, with limited federal or state government involvement. Communities and NGOs representing indigenous groups reported the government often failed to consult indigenous communities adequately when making decisions regarding the development of projects intended to exploit the energy, minerals, timber, and other natural resources on indigenous lands. The CNDH maintained a formal human rights program to inform and assist members of indigenous communities.

The CNDH reported indigenous women were among the most vulnerable groups in society. They often experienced racism and discrimination and were often victims of violence. Indigenous persons generally had limited access to health-care and education services.

Thousands of persons from the four indigenous groups in the Sierra Tarahumara (the Raramuri, Pima, Guarojio, and Tepehuan) were displaced, and several indigenous leaders were killed or threatened, according to local journalists, NGOs, and state officials.

For example, on January 15, Isidro Baldenegro Lopez was killed in Chihuahua. Lopez was a community leader of the Raramuri indigenous people and an environmental activist who had won the Goldman Environmental Prize in 2005.

On June 26, Mario Luna, an indigenous leader of the Yaqui tribe in the state of Sonora, was attacked with his family by unknown assailants in an incident believed to be harassment in retaliation for his activism in opposition to an aqueduct threatening the tribe’s access to water. Luna began receiving formal protection from federal and state authorities after he was attacked.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law prohibits discrimination based on sexual orientation and against LGBTI individuals.

In Mexico City the law criminalizes hate crimes based on sexual orientation and gender identity. Civil society groups claimed police routinely subjected LGBTI persons to mistreatment while in custody.

Discrimination based on sexual orientation and gender identity was prevalent, despite a gradual increase in public tolerance of LGBTI individuals, according to public opinion surveys. There were reports that the government did not always investigate and punish those complicit in abuses, especially outside Mexico City.

On April 18, media reported LGBTI activist Juan Jose Roldan Avila was beaten to death on April 16 in Calpulalpan, Tlaxcala. His body showed signs of torture.

### **Other Societal Violence or Discrimination**

The Catholic Multimedia Center reported criminal groups targeted priests and other religious leaders in some parts of the country and subjected them to extortion, death threats, and intimidation. As of August the center reported four priests killed, two foiled kidnappings, and two attacks against the Metropolitan Cathedral and the Mexican Bishops Office in Mexico City.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers to form and join unions, to bargain collectively, and to strike in both the public and private sectors; however, conflicting law, regulations, and practice restricted these rights.

The law requires a minimum of 20 workers to form a union. To receive official recognition from the government, unions must file for registration with the appropriate conciliation and arbitration board (CAB) or the Ministry of Labor and Social Welfare. For the union to be able to perform its legally determined functions, its leadership must also register with the appropriate CAB or the ministry. CABs operated under a tripartite system with government, worker, and employer representatives. Outside observers raised concerns that the boards did not adequately provide for inclusive worker representation and often perpetuated a bias against independent unions, in part due to intrinsic conflicts of interest within

the structure of the boards exacerbated by the prevalence of representatives from “protection” (unrepresentative, corporatist) unions.

By law a union may call for a strike or bargain collectively in accordance with its own bylaws. Before a strike may be considered legal, however, a union must file a “notice to strike” with the appropriate CAB, which may find that the strike is “nonexistent” or, in other words, it may not proceed legally. The law prohibits employers from intervening in union affairs or interfering with union activities, including through implicit or explicit reprisals against workers. The law allows for reinstatement of workers if the CAB finds the employer fired the worker unfairly and the worker requests reinstatement; however, the law also provides for broad exemptions for employers from such reinstatement, including employees of confidence or workers who have been in the job for less than a year.

Although the law authorizes the coexistence of several unions in one worksite, it limits collective bargaining to the union that has “ownership” of a collective bargaining agreement. When there is only one union present, it automatically has the exclusive right to bargain with the employer. Once a collective bargaining agreement is in place at a company, another union seeking to bargain with the employer must compete for bargaining rights through a *recuento* (bargaining-rights election) administered by the CAB. The union with the largest number of votes goes on to “win” the collective bargaining rights. It is not mandatory for a union to consult with workers or have worker support to sign a collective bargaining agreement with an employer. The law establishes that internal union leadership votes may be held via secret ballot, either directly or indirectly.

The government, including the CABs, did not consistently protect worker rights. The government’s common failure to enforce labor and other laws left workers with little recourse regarding violations of freedom of association, poor working conditions, and other labor problems. The CABs’ frequent failure to impartially and transparently administer and oversee procedures related to union activity, such as union elections and strikes, undermined worker efforts to exercise freely their rights to freedom of association and collective bargaining.

On February 24, labor justice revisions to the constitution were enacted into law. The constitutional reforms replace the CABs with independent judicial bodies, which are intended to streamline the labor justice process. Observers contended that additional changes to the labor law were necessary to provide for the following: workers are able to freely and independently elect union representatives, there is an expedited recount process, unions demonstrate union

representativeness prior to filing a collective bargaining agreement, and workers to be covered by the agreement receive a copy prior to registration--thus eliminating unrepresentative unions and “protection” contracts.

By law penalties for violations of freedom of association and collective bargaining laws range from 16,160 pesos (\$960) to 161,600 pesos (\$9,640). Such penalties were rarely applied and were insufficient to deter violations. Administrative and/or judicial procedures were subject to lengthy delays and appeals.

Workers exercised their rights to freedom of association and collective bargaining with difficulty. The process for registration of unions was politicized, and according to union organizers, the government, including the CABs, frequently used the process to reward political allies or punish political opponents. For example, it rejected registration applications for locals of independent unions, and for unions, based on technicalities.

The country’s independent unions and their legal counsel, as well as global and North American trade unions, continued to encourage the government to ratify the International Labor Organization (ILO) Convention 98 on collective bargaining, which it delayed doing despite removal of the main obstacle to compliance in the 2012 labor law reform, the exclusion clause for dismissal. By ratifying the convention, the government would subject itself to the convention’s oversight and reporting procedures. Ratification would also contribute, according to the independent unions, to ensuring that the institutions that are established as a result of the labor justice reform are, in law and practice, independent, transparent, objective, and impartial, with workers having recourse to the ILO’s oversight bodies to complain of any failure.

Companies and protection unions (unrepresentative, corporatist bodies) took advantage of complex divisions and a lack of coordination between federal and state jurisdictions to manipulate the labor conciliation and arbitration processes. For example, a company might register a collective bargaining agreement at both the federal and the local level and later alternate the jurisdictions when individuals filed and appealed complaints to gain favorable outcomes. Additionally, union organizers from several sectors raised concerns regarding the overt and usually hostile involvement of the CABs when organizers attempted to create independent unions.

Protection unions and “protection contracts”--collective bargaining agreements signed by employers and these unions to circumvent meaningful negotiations and

preclude labor disputes--was a problem in all sectors. The prevalence of protection contracts was due, in part, to the lack of a requirement for workers to demonstrate support for collective bargaining agreements before they took effect. Protection contracts often were developed before the company hired any workers and without direct input from or knowledge of the covered workers.

Independent unions, a few multinational corporations, and some labor lawyers and academics pressed for complementary legislation, including revisions to the labor code that would prohibit registration of collective bargaining agreements where the union could not demonstrate support by a majority of workers or where workers had not ratified the content of the agreements. Many observers noted working conditions of a majority of workers were under the control of these contracts and the unrepresentative unions that negotiated them, and that the protection unions and contracts often prevented workers from fully exercising their labor rights as defined by law. These same groups advocated for workers to receive hard copies of existing collective bargaining agreements when they are hired.

According to several NGOs and unions, many workers faced procedural obstacles, violence, and intimidation around bargaining-rights elections perpetrated by protection union leaders and employers supporting them, as well as other workers, union leaders, and vigilantes hired by a company to enforce a preference for a particular union. Some employers attempted to influence bargaining-rights elections through the illegal hiring of pseudo employees immediately prior to the election to vote for the company-controlled union.

Other intimidating and manipulative practices were common, including dismissal of workers for labor activism. For example, there were reports that a garment factory in Morelos failed to halt workplace sexual harassment and sexual violence and instead fired the whistleblowers that reported the problem to management.

Independent labor activists reported the requirement that the CABs approve strikes in advance gave boards power to show favoritism by determining which companies to protect from strikes. Few formal strikes occurred, but protests and informal work stoppages were common.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, but the government did not effectively enforce the law. Penalties for conviction of forced labor violations

range from five to 30 years' imprisonment and observers generally considered them sufficient to deter violations.

Forced labor persisted in the agricultural and industrial sectors, as well as in the informal sector. Women and children were subject to domestic servitude. Women, children, indigenous persons, and migrants (including men, women, and children) were the most vulnerable to forced labor. In November authorities freed 81 workers from a situation of forced labor on a commercial farm in Coahuila. In June federal authorities filed charges against the owner of an onion and chili pepper farm in Chihuahua for forced labor and labor exploitation of 80 indigenous workers. The victims, who disappeared following the initial complaint to state authorities, lived in unhealthy conditions and allegedly earned one-quarter of the minimum wage.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The constitution prohibits children under age 15 from working and allows those ages 15 to 17 to work no more than six daytime hours in nonhazardous conditions daily, and only with parental permission. The law requires that children under age 18 must have a medical certificate in order to work. The minimum age for hazardous work is 18. The law prohibits minors from working in a broad list of hazardous and unhealthy occupations.

The government was reasonably effective in enforcing child labor laws in large and medium-sized companies, especially in the maquila sector and other industries under federal jurisdiction. Enforcement was inadequate in many small companies and in agriculture and construction and nearly absent in the informal sector, in which most child laborers worked.

At the federal level, the Ministry of Social Development, Attorney General's Office, and National System for Integral Family Development share responsibility for inspections to enforce child labor laws and to intervene in cases in which employers violated such laws. The Ministry of Labor is responsible for carrying out child-labor inspections. Penalties for violations range from 16,780 pesos (\$1,000) to 335,850 pesos (\$20,000) but were not sufficiently enforced to deter violations.

In December 2016 the CNDH alerted national authorities to 240 agricultural workers, including dozens of child laborers, working in inhuman conditions on a cucumber and chili pepper farm in San Luis Potosi after state authorities failed to respond to their complaints.

According to the 2015 INEGI survey, the most recent data available on child labor, the number of employed children ages five to 17 remained at 2.5 million, or approximately 8.4 percent of the 29 million children in the country. Of these children, 90 percent were engaged in work at ages or under conditions that violated federal labor laws. Of employed children 30 percent worked in the agricultural sector in the harvest of melons, onions, cucumbers, eggplants, chili peppers, green beans, sugarcane, tobacco, coffee, and tomatoes. Other sectors with significant child labor included services (25 percent), retail sales (23 percent), manufacturing (14 percent), and construction (7 percent).

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination with respect to employment or occupation regarding “race, nationality age, religion, sex, political opinion, social status, handicap (or challenged capacity), economic status, health, pregnancy, language, sexual preference, or marital status.”

The government did not effectively enforce these laws and regulations. Penalties for violations of the law included administrative remedies, such as reinstatement, payment of back wages, and fines (often calculated based on the employee’s wages), and were not generally considered sufficient to deter violations. Discrimination in employment or occupation occurred against women, indigenous groups, persons with disabilities, LGBTI individuals, and migrant workers.

#### **e. Acceptable Conditions of Work**

On November 21, the single general minimum wage rose from 80.04 pesos per day (\$4.76) to 88.36 pesos per day (\$5.26), short of the official poverty line of 95.24 pesos per day (\$5.67). Most formal-sector workers received between one and three times the minimum wage. The tripartite National Minimum Wage Commission, whose labor representatives largely represented protection unions and their interests, is responsible for establishing minimum salaries but continued to block increases that kept pace with inflation.

The law sets six eight-hour days and 48 hours per week as the legal workweek. Any work over eight hours in a day is considered overtime, for which a worker is to receive double pay. After accumulating nine hours of overtime in a week, a worker earns triple the hourly wage. The law prohibits compulsory overtime. The law provides for eight paid public holidays and one week of paid annual leave after completing one year of work. The law requires employers to observe occupational safety and health regulations, issued jointly by the Ministry of Labor and Social Welfare and the Institute for Social Security. Legally mandated joint management and labor committees set standards and are responsible for overseeing workplace standards in plants and offices. Individual employees or unions may complain directly to inspectors or safety and health officials. By law workers may remove themselves from situations that endanger health or safety without jeopardy to their employment.

The Ministry of Labor is responsible for enforcing labor laws and conducting inspections at workplaces. In 2015, the most recent year for which data were available, there were 946 inspectors nationwide. This was sufficient to enforce compliance, and the ministry carried out inspections of workplaces throughout the year, using a questionnaire and other means to identify victims of labor exploitation. Penalties for violations of wage, hours of work, or occupational safety and health laws range from 17,330 pesos (\$1,030) to 335,940 pesos (\$20,020) but generally were not sufficient to deter violations. Through its DECLARALAB self-evaluation tool, the ministry provided technical assistance to almost 4,000 registered workplaces to help them meet occupational safety and health regulations.

According to labor rights NGOs, employers in all sectors sometimes used the illegal “hours bank” approach--requiring long hours when the workload is heavy and cutting hours when it is light--to avoid compensating workers for overtime. This was a common practice in the maquila sector, in which employers forced workers to take leave at low moments in the production cycle and obliged them to work in peak seasons, including the Christmas holiday period, without the corresponding triple pay mandated by law for voluntary overtime on national holidays. Additionally, many companies evaded taxes and social security payments by employing workers informally or by submitting falsified payroll records to the Mexican Social Security Institute. In 2013, the latest year for which such data are available, INEGI estimated 59 percent of the workforce was engaged in the informal economy.

Observers from grassroots labor rights groups, international NGOs, and multinational apparel brands reported that employers throughout export-oriented supply chains were increasingly using methods of hiring that deepened the precariousness of work for employees. The most common practice reported was that of manufacturers hiring workers on one- to three-month contracts, and then waiting for a period of days before rehiring them on another short-term contract, to avoid paying severance and prevent workers from accruing seniority, while maintaining the exact number of workers needed for fluctuating levels of production. This practice violates Federal Labor Law and significantly impacted workers' social and economic rights, including elimination of social benefits and protections, restrictions on worker's rights to freedom of association and collective bargaining, and minimal ability for workers, especially women, to manage their family responsibilities. Observers noted it also increased the likelihood of work-related illness and injury. Combined with outsourcing practices that made it difficult for workers to identify their legally registered employer, workers were also more likely to be denied access to justice.

Private recruitment agencies and individual recruiters violated the rights of temporary migrant workers recruited in the country to work abroad, primarily in the United States. Although the law requires these agencies to be registered, they often were unregistered. The Labor Ministry's registry was outdated and limited in scope. Although a few large recruitment firms were registered, the registry included many defunct and nonexistent midsized firms, and few if any of the many small, independent recruiters. Although the government did not actively monitor or control the recruitment process, it reportedly was responsive in addressing complaints. There were also reports that registered agencies defrauded workers with impunity. Some temporary migrant workers were regularly charged illegal recruitment fees. According to a 2013 study conducted by the Migrant Worker Rights Center, 58 percent of 220 applicants interviewed had paid recruitment fees; one-half did not receive a job contract and took out loans to cover recruitment costs; and 10 percent paid fees for nonexistent jobs. The recruitment agents placed those who demanded their rights on blacklists and barred them from future employment opportunities.

News reports indicated there were poor working conditions in some maquiladoras. These included low wages, contentious labor management, long work hours, unjustified dismissals, the lack of social security benefits, unsafe workplaces, and the lack of freedom of association. Many women working in the industry reported suffering some form of abuse. Most maquilas hired employees through outsourcing with few social benefits.