



Submission to the Universal Periodic Review of Mexico

Human Rights Watch

July 2023

Introduction

1. This submission highlights Human Rights Watch's key concerns regarding the Mexican government's compliance with its international obligations since its last Universal Periodic Review (UPR) in 2018. During previous UPRs, Mexico accepted recommendations to address many chronic human rights problems, including widespread violence by organized crime groups, the frequent use of torture in criminal investigations, a growing disappearance crisis, abuses against migrants and asylum seekers, and attacks on journalists and human rights defenders. These remain a serious concern. The legal measures and constitutional reforms passed to address them have been ineffective and at times counterproductive.

Public Security

2. Levels of violent crime have skyrocketed in Mexico over the past two decades, reaching historic highs in recent years. Successive governments have deployed the military domestically to fight organized crime and conduct law enforcement tasks. This strategy has failed to reduce violent crime and led to serious human rights violations, including extrajudicial killings, torture, and enforced disappearances.¹

3. During the 2018 UPR, Mexico accepted recommendations to address organized crime and reduce high levels of murder and other types of violent crime that affect the daily life of the Mexican people.² It also committed to strengthening the independence and effectiveness of the judiciary.³ During its 2013 UPR, Mexico agreed to ensure that its efforts to combat organized crime were consistent with human rights standards and to continue building the capacity of civilian security forces.⁴

¹ Human Rights Watch. *Neither Rights Nor Security: Killings, Torture, and Disappearances in Mexico's "War on Drugs,"* (Human Rights Watch: New York, 2011), <https://www.hrw.org/report/2011/11/09/neither-rights-nor-security/killings-torture-and-disappearances-mexicos-war-drugs>; José Miguel Vivanco (Human Rights Watch), "Aftermath of a Massacre," commentary, *The Huffington Post*, July 14, 2015,

https://www.huffpost.com/entry/aftermath-of-a-massacre_b_7794534; Maria Abi-Habib and Galia García Palafox, "Deadly Attack Exposes Growing Threat in Mexico: the Military," *New York Times*, April 7, 2023, <https://www.nytimes.com/2023/04/07/world/americas/mexico-military-killings-nuevo-laredo.html>

² A/HRC/40/8. Recommendations 132.42 (Bahrain), 132.43 (Czechia), 132.44 (Japan), 132.45 (Liechtenstein), 132.46 Myanmar. Views on conclusions and/or voluntary commitments and replies presented by the State under review: <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

³ A/HRC/40/8. Recommendation 132.104 (Peru). <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

⁴ A/HRC/25/7. Recommendations 148.96 (Japan), 148.97 (Poland), 148.98 (United States), 148.101 (Viet Nam) <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

4. Rates of violent crime have remained alarmingly high. The homicide rate was 28 per 100,000 in 2021, one of the highest in the world.⁵ Instead of professionalizing civilian police, Mexico has continued its militarized security strategy. It disbanded the Federal Police in 2019, replacing them with the National Guard, a military force. The Army reports having killed 866 civilians between January 2019 and May 2023.⁶

Recommendations:

- Address the root causes of criminal violence, such as poverty, lack of economic opportunity, and social exclusion.
- Strengthen efforts to professionalize civilian security forces and to end the role of the armed forces in public security.
- Ensure that allegations of extrajudicial killings and other abuses by the armed forces are properly investigated by civilian authorities.

Access to Justice

5. During its 2018 UPR, Mexico agreed to address widespread impunity for violent crimes and human rights violations and to take steps to ensure prompt, thorough, independent, and impartial investigations and fair trials.⁷ It also committed to establishing an autonomous, accountable, and fully independent attorney general's office with the technical capacity to ensure transparent investigations.⁸

6. However, authorities still fail to investigate or prosecute most crimes. Around 90 percent of crimes are never reported, a third of reported crimes are never investigated, and just under 16 percent of investigations are "resolved" (either in court or through mediation or compensation), meaning authorities resolved just over 1 percent of all crimes committed in 2021.⁹

⁵ "Datos preliminares revelan que en 2021 se registraron 35,625 homicidios," Instituto Nacional de Estadística y Geografía (INEGI) news release 376/22, July 26, 2022, <https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2022/DH/DH2021.pdf>; UNODC Data Portal, "Victims of intentional homicide," <https://dataunodc.un.org/dp-intentional-homicide-victims>, accessed July 4, 2023.

⁶ "Agresiones contra el personal militar," Secretaría de la Defensa Nacional, May 1 2023, <https://www.gob.mx/sedena/acciones-y-programas/agresiones-contra-el-personal-militar>

⁷ A/HRC/40/8. Recommendations 132.91 (Ireland), 132.92 (Spain), 132.97 (France), 132.98 (Germany), 132.99 (Italy), 132.102 (Norway) <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

⁸ A/HRC/40/8. Recommendations 132.84 (United States), 132.85 (Austria), 132.87 (United Kingdom), 132.93 (Australia) <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

⁹ Instituto Nacional de Estadística y Geografía (INEGI), "Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública 2022: Presentación Ejecutiva," pp.39-43, https://www.inegi.org.mx/contenidos/programas/envipe/2022/doc/envipe2022_presentacion_nacional.pdf

7. In 2018 Mexico enacted a reform to make the attorney general's office independent from the government and more accountable to victims and their families.¹⁰ However, many parts of the reform were never properly implemented and in 2021, Congress repealed many key provisions.¹¹

Recommendations

- Ensure that allegations of violent crime and human rights abuses are promptly and effectively investigated.
- Ensure that justice operators have sufficient training and resources to effectively investigate and prosecute crimes.
- Take steps to strengthen the independence and professionalism of investigators and prosecutors in the criminal justice system.

Torture and Arbitrary Detention

8. During its 2018 UPR, Mexico agreed to combat arbitrary detention and torture of detainees in the criminal justice system, including by establishing a national detention registry; ensuring that accusations of torture and other ill-treatment are properly investigated; and ending *arraigo* detention.¹²

9. Torture remains common. In the most recent survey of incarcerated people conducted by Mexico's national statistics agency in July 2021, nearly half of respondents said that, after they were detained, police or soldiers had subjected them to serious forms of ill-treatment, including beatings, asphyxiation, electric shocks, waterboarding, or sexual violence, before handing them over to prosecutors.¹³ Among those who had confessed to a crime, 38 percent said they only did so because authorities had beaten them or threatened to harm them or their families.¹⁴

¹⁰ Due Process of Law Foundation & Washington Office on Latin America, *The Implementing Law of Mexico's National Prosecutor's Office: Progress and Pending Issues*, (WOLA: Washington, DC: 2019), <https://www.wola.org/analysis/report-mexico-national-prosecutors-office-implementing-law/>.

¹¹ Colectivo vs La Impunidad, "Fiscalómetro: ¿Cómo enfrenta nuestro país su impunidad?," October 7, 2020, <https://www.wola.org/wp-content/uploads/2020/10/FISCAL%C3%93METRO.pdf>; "Gertz Manero y diputados reviven a la PGR y traicionan a las víctimas," Colectivo vs la Impunidad news reléase, April 23, 2021, <https://www.mucd.org.mx/wp-content/uploads/2021/04/Comunicado-impunidad-LOFGR-230421-V3.pdf>

¹² A/HRC/40/8. Recommendations 132.56 (Turkey), 132.58 (Belarus), 132.59 (Ghana), 132.60 (Norway), 132.61 (Pakistan). <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

¹³ Instituto Nacional de Estadística y Geografía (INEGI), "Encuesta Nacional de Población Privada de la Libertad (ENPOL) 2021: Presentación Ejecutiva," p. 65, https://www.inegi.org.mx/contenidos/programas/enpol/2021/doc/enpol2021_presentacion_nacional.pdf

¹⁴ Ibid. p. 74

10. Authorities received at least 15,904 criminal complaints for torture between January 1, 2018 and March 31, 2023, according to a national registry created by the attorney general's office.¹⁵ The real number is likely higher, since six states have not provided data for the registry.¹⁶ Just 30 people were convicted for torture between 2006 and 2021.¹⁷

11. Prolonged and other arbitrary detention also remain a problem. Judges are legally required to order pretrial detention for those accused of many offenses, without evaluating the circumstances of the case. More than 40 percent of imprisoned people in 2021 had not been convicted of any crime.¹⁸ Congress expanded the list of crimes requiring mandatory pretrial detention in 2019.¹⁹

12. Prosecutors also continue to use *arraigo* detention, a mechanism allowing them to obtain judicial authorization to detain anyone for up to 40 days without charge. The Inter-American Court of Human Rights ruled in November 2022 and January 2023 that Mexico's use of mandatory pretrial detention and *arraigo* detention violates human rights standards and ordered it to reform its laws and constitution.²⁰

13. The Mexican government created a national detention registry in 2019.²¹

Recommendations:

- Repeal the legal and constitutional provisions providing for *arraigo* detention and mandatory pre-trial detention to bring them in line with international human rights standards and the Inter-American Court of Human Rights' rulings.

¹⁵ Fiscalía General de la República, "Registro Nacional del Delito de Tortura," <https://renadet.fgr.org.mx/>, accessed July 4, 2023.

¹⁶ According to the most recent report available from the registry, dated March 2023.

¹⁷ According to public records requests made by the Comisión Mexicana para la Defensa y Promoción de los Derechos Humanos and shared with Human Rig

¹⁸ Instituto Nacional de Estadística y Geografía (INEGI), "Censo Nacional de Sistema Penitenciario Federal 2022," p.32, https://www.inegi.org.mx/contenidos/programas/cnsipee/2022/doc/cnsipee_2022_resultados.pdf

¹⁹ "Decreto por el que se declara reformado el Artículo 19 de la Constitución Política de los Estados Unidos Mexicanos, en materia de prisión preventiva oficiosa," *Diario Oficial de la Federación*, April 12, 2019, https://www.dof.gob.mx/nota_detalle.php?codigo=5557700.

²⁰ *Tzompaxtle Tecpile et al. vs. México*, Inter-American Court of Human Rights, Sentence, November 7, 2022, https://www.corteidh.or.cr/docs/casos/articulos/seriec_470_esp.pdf; *García Rodríguez et al. vs. Mexico*, Inter-American Court of Human Rights, Sentence, January 25, 2023 https://www.corteidh.or.cr/docs/casos/articulos/seriec_482_esp.pdf.

²¹ "El primero de abril inicia Registro Nacional de Detenciones por faltas administrativas," Mexican government news release, March 31, 2021, <https://www.gob.mx/sspc/prensa/el-primero-de-abril-inicia-registro-nacional-de-detenciones-por-faltas-administrativas-268290>.

- Undertake a campaign aimed at preventing soldiers, police, and prosecutors from using torture in criminal investigations and ensuring that allegations of torture are effectively investigated and prosecuted.
- Ensure that the data in the National Torture Registry is accurate and complete and includes information about prosecutions and convictions.

Disappearances and Enforced Disappearances

14. In its 2018 UPR, Mexico committed to ensuring that disappearances be promptly and effectively investigated and that those responsible be brought to justice.²² It also accepted recommendations to ensure adequate staff and funding for the National Search Commission, maintain an up-to-date national missing persons' registry, create a national DNA database, and to accept the competency of the Committee on Enforced Disappearances (CED).²³

15. Disappearances remain a serious problem. More than 111,000 people were considered missing as of July 4, 2023, according to the official missing persons' registry. More than 43,000 have disappeared since December 1, 2018.²⁴

16. When families report disappearances, authorities rarely investigate.²⁵ Families of the disappeared have formed more than 190 "search collectives" to investigate disappearances, including, frequently, by digging up mass graves.²⁶

17. Authorities believe many of the disappeared may have been buried in common graves by state officials after forensic services declared them "unidentified" or "unclaimed."²⁷ From 2006 to 2020, at least 50,000 bodies passed through the custody of state and local forensic medical services without being properly identified.²⁸ Others may

²² A/HRC/40/8. Recommendations 132.49 (Germany), 132.72 (France), 132.74 (Ghana), 132.77 (Argentina)

²³ A/HRC/40/8. Recommendations 132.83 (United States), 132.56 (Turkey), 132.55 (Switzerland), 132.7 (Paraguay), 132.8 (Benin), 132.9 (Uruguay), 132.69 (Chile). <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

²⁴ Secretaría de Gobernación, Registro Nacional de Personas Desaparecidas y No Localizadas (RNPNO), <https://versionpublicarnpdno.segob.gob.mx/>, consulted July 4, 2023.

²⁵ Human Rights Watch, *Mexico's Disappeared: The Enduring Cost of a Crisis Ignored*, (Human Rights Watch: New York: 2013), <https://www.hrw.org/report/2013/02/20/mexicos-disappeared/enduring-cost-crisis-ignored>; CED/C/R.9 (Findings), paras. 25-27

²⁶ Comisión Nacional de Búsqueda, "Informe para el Comité contra las Desapariciones Forzadas de las Naciones Unidas," March 2022, p. 22, <https://comisionacionaldebusqueda.gob.mx/wp-content/uploads/2022/03/CNB-Informe-CED-Espanol.pdf>

²⁷ Karla Quintana & Javier Yankelevich (Comisión Nacional de Búsqueda), "Morir identificado y buscado, y ser enviado a una fosa común," commentary, *Animal político*, February 23, 2022, <https://www.animalpolitico.com/analisis/invitades/morir-identificado-y-buscado-y-ser-enviado-a-una-fosa-comun>

²⁸ Movimiento por Nuestros Desaparecidos en México, "La Crisis Forense en México," August 2021, <https://movndmx.org/wp-content/uploads/2021/08/Informe-La-Crisis-Forense-en-Me%CC%81xico.pdf>

have been killed and buried in hidden graves by police, soldiers, or criminal groups. From 2006 to 2021, authorities reported having found more than 4,800 such graves across the country.²⁹

18. In 2020, Mexico accepted the competency of the Committee on Enforced Disappearances to receive and examine individual complaints. In May 2023, the Committee issued its first decision, finding that Mexico had violated its international legal obligations to conduct a prompt, exhaustive, and impartial investigation of the disappearance of a young man who was removed from his home by armed men in police uniforms in 2013.³⁰

19. In April 2022, the CED presented the report on its visit to Mexico—its first visit to any country. The committee criticized Mexican officials for their “passive attitude” and expressed concern over “near total impunity” for these crimes.³¹ At the time the report was released, just 36 people had been convicted for involvement in enforced disappearances.³²

20. In May 2023, the attorney general’s office began operating a national forensic database to compare forensic data and DNA from unidentified bodies with missing persons’ reports.³³

Recommendations:

- Attend to the forensic backlog, including by ensuring authorities are sufficiently trained and equipped to identify human remains.
- Ensure that police and prosecutors promptly and effectively investigate all disappearances and bring those responsible to justice.
- Continue efforts to implement the recommendations of the CED following its in-country visit.
- Continue efforts to develop a comprehensive forensic database that can be used for mass identification.
- Continue ensuring the National Search Commission has adequate funding and staff.

²⁹ Comisión Nacional de Búsqueda, p. 45

³⁰ CED/C/24/D/4/2021

³¹ CED/C/R.9 (Findings)

³² Ibid. p.25

³³ “Aviso General mediante el cual se da a conocer la fecha de inicio de operación del Banco Nacional de Datos Forenses y del Registro Nacional de Personas Fallecidas No Identificadas y No Reclamadas,” *Diario Oficial de la Federación*, May 11, 2023, https://www.dof.gob.mx/nota_detalle.php?codigo=5688420.

Journalists and Human Rights Defenders

21. Mexico is one of the most dangerous countries in the world for journalists, human rights defenders, and environmental defenders. In its 2018 UPR, Mexico accepted recommendations to prevent, investigate, and prosecute killings, and disappearances of journalists and human rights defenders and to ensure that the federal protection mechanism for journalists and human rights defenders has the staff, funding, and political support necessary to operate effectively.³⁴

22. However, violence against journalists and human rights defenders has continued unabated. In 2022, 16 journalists or media workers were killed, making it one of the deadliest years on record.³⁵ The Mexican human rights group Comité Cerezo reported that 22 human rights defenders were killed in 2022.³⁶ The environmental group Centro Mexicano de Derecho Ambiental reported 24 killings of environmental defenders in 2022.³⁷

23. Authorities routinely fail to effectively investigate and prosecute these cases. The federal Special Prosecutor's office responsible for investigating crimes against journalists reported having opened 1,634 investigations from its creation in July 2010 through the end of May 2023. During that time, it obtained 35 convictions, including seven for homicide. Most convictions have been obtained since the current special prosecutor was appointed in 2017.³⁸

24. The federal Protection Mechanism for Human Rights Defenders and Journalists continues to lack sufficient staff and funding and struggles to coordinate with state and local officials, leaving it sometimes unable to meet protection needs.³⁹ As of May 2022, eight journalists and two human rights defenders had been killed while receiving

³⁴ A/HRC/40/8. Recommendations 132.23 (Plurinational State of Bolivia), 132.70 (Czechia), 132.73 (Germany), 132.78 (Argentina), 132.79 (New Zealand), 132.137 (Estonia), 132.138 (Lithuania) <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

³⁵ José Luis Gamboa, Margarito Martínez, Lourdes Maldonado, Roberto Toledo, Heber López, Jorge Luis Camero, Juan Carlos Muñiz, Armando Linares, Luis Enrique Ramírez, Yessenia Mollinedo, Sheila Johana García, Antonio de la Cruz, Ernesto Méndez, Juan Arjón López, Fredid Román, Pedro Pablo Kumul.

³⁶ Comité Cerezo México, "Informe: 22 personas defensoras de derechos humanos ejecutadas extrajudicialmente en 2022," January 10, 2023, <https://www.comitecerezo.org/IMG/pdf/informeejeex2022.pdf>

³⁷ Centro Mexicano de Derecho Ambiental, "Report on the Situation of Individual and Community Environmental Rights Defenders in Mexico: 2022," April 2023, <https://www.cemda.org.mx/report-on-the-situation-of-individual-and-community-environmental-human-rights-defenders-in-mexico-2022/>

³⁸ Fiscalía Especial para la Atención de Delitos cometidos contra la Libertad de Expresión, "Informe Estadístico," May 2023, <https://fgr.org.mx/swb/FEMDH/FEADLE>.

³⁹ "Mexico: Address Persistent Violence Against Journalists," Human Rights Watch news release, May 3, 2022, <https://www.hrw.org/news/2022/05/03/mexico-address-persistent-violence-against-journalists>

protection from the mechanism since its creation in 2012.⁴⁰

Recommendations:

- Ensure that killings and disappearances of journalists, human rights defenders, and environmental defenders are promptly, effectively, and impartially investigated and that those responsible are brought to justice.
- Ensure sufficient staff and funding for the federal protection mechanism for journalists and human rights defenders.

Migrants and Asylum Seekers

25. Hundreds of thousands of people travel through Mexico every year, fleeing violence and persecution or seeking opportunity. They are frequently targeted by cartels, criminals, police, and immigration agents who attempt to rob, kidnap, extort, rape, or kill them. These crimes are rarely reported, investigated, or punished.

26. In its 2018 UPR, Mexico agreed to take steps to protect and guarantee the safety of migrants and asylum seekers, including those in transit, and to ensure they have access to justice.⁴¹ It also committed to strengthen the Commission for Refugee Assistance (COMAR) by considerably increasing the number of workers to process asylum applications.⁴² However, the government has continued to actively collaborate in abusive immigration deterrence policies and abuses against migrants and asylum seekers remain a serious problem.

27. Mexico has intensified efforts to prevent migrants and asylum seekers from reaching the United States, including by deploying more than 31,000 soldiers for immigration enforcement.⁴³ Authorities detained 444,000 people in immigration detention centers in 2022—the highest number ever.⁴⁴ Staff there often pressure migrants to agree to “assisted return” (that is, deportation) to their countries and discourage them from applying for asylum even when they say their life could be in

⁴⁰ Plataforma Nacional de Transparencia, Request No. 331009722000028, May 13, 2022

⁴¹ A/HRC/40/8. Recommendations 132.153 (Sweden), 132.255 (Côte d’Ivoire), 132.257 (Ecuador), 132.258 (Greece), 132.260 (Holy See), 132.264 (Armenia), 132.229 (Morocco) <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

⁴² A/HRC/40/8. Recommendation 132.259 (Haiti) <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

⁴³ Daily news conference, President Andrés Manuel López Obrador, Mexico City, June 27, 2023; News conference, Defense Secretary Luis Cresencio Sandoval González, Tuxtla Gutiérrez, August 27, 2021; Tom Phillips, “Mexico immigration chief vows to cut number of people migrating by 60%,” *The Guardian*, June 21, 2019, <https://www.theguardian.com/world/2019/jun/21/mexico-immigration-chief-vows-to-cut-number-of-people-migrating-by-60>.

⁴⁴ Secretaría de Gobernación, “Boletín Mensual de Estadísticas Migratorias 2022,” accessed July 5, 2023, http://www.politicamigratoria.gob.mx/work/models/PoliticaMigratoria/CEM/Estadisticas/Boletines_Estadisticos/2022/Boletin_2022.pdf.

danger if sent back.⁴⁵ They also often fail to inform detainees' families of their whereabouts and deny them access to phones, which could constitute enforced disappearance, according to the CED.⁴⁶

28. Immigration detention centers are notoriously overcrowded, unsanitary, and dangerous. In April 2023, 40 people died in a fire at an immigration detention center in Ciudad Juárez after staff did not release them from their cell.⁴⁷

29. Since 2019, Mexico allowed the United States to expel certain non-Mexican migrants and asylum seekers to Mexico.⁴⁸ Human Rights Watch has documented dozens of cases of people expelled under these agreements who suffered serious abuses committed by criminal groups, Mexican police, and immigration agents. These included sexual assault, armed robbery, kidnapping, and extortion. In many cases, when victims attempted to report these abuses, authorities refused to investigate.⁴⁹

30. The number of people applying for refugee status in Mexico has soared over the past decade. Funding for the asylum system has not kept pace. Since 2018, Mexico has greatly expanded the capacity of its asylum system with significant assistance from UNHCR, which provides the majority of funding for staff and other operating expenses.⁵⁰ However, existing funding is still insufficient. More than 118,000 people applied for

⁴⁵ "Mexico: Asylum Seekers Face Abuses at Southern Border," Human Rights Watch news release, March 5, 2021, <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>; Human Rights Watch, *Closed Doors: Mexico's Failure to Protect Central American Refugee and Migrant Children* (New York: Human Rights Watch, 2016), <https://www.hrw.org/report/2016/03/31/closed-doors/mexicos-failure-protect-central-american-refugee-and-migrant>

⁴⁶ CED/C/R.9 (Findings), para 18-19

⁴⁷ Vicki Gaubeca, "Tragedy at Mexican Immigration Detention Center," commentary, Human Rights Watch dispatch, April 3, 2023, <https://www.hrw.org/news/2023/04/03/tragedy-mexican-immigration-detention-center>.

⁴⁸ "US: Biden 'Asylum Ban' Endangers Lives at the Border," Human Rights Watch news release, May 11, 2023, <https://www.hrw.org/news/2023/05/11/us-biden-asylum-ban-endangers-lives-border>.

⁴⁹ Human Rights Watch, *Like I'm Drowning: Children and Families Sent to Harm by the US 'Remain in Mexico' Program* (New York: Human Rights Watch, 2021), <https://www.hrw.org/report/2021/01/06/im-drowning/children-and-families-sent-harm-us-remain-mexico-program>; Letter from Human Rights Watch to US Department of Homeland Security Inspector General Joseph Cuffari and Civil Rights and Civil Liberties Officer Cameron Quinn, "Formal Complaint Regarding 'Remain in Mexico'," June 2, 2020, <https://www.hrw.org/news/2020/06/02/dhs-oig-formal-complaint-regarding-remain-mexico>; Human Rights Watch, *We Can't Help You Here: US Returns of Asylum Seekers to Mexico* (New York: Human Rights Watch 2019), <https://www.hrw.org/report/2019/07/02/we-cant-help-you-here/us-returns-asylum-seekers-mexico>; "Mexico: Abuses Against Asylum Seekers at US Border," Human Rights Watch news release, March 5, 2021, <https://www.hrw.org/news/2021/03/05/mexico-abuses-against-asylum-seekers-us-border>. "US: LGBT Asylum Seekers in Danger at the Border," Human Rights Watch new release, May 31, 2022, <https://www.hrw.org/news/2022/05/31/us-lgbt-asylum-seekers-danger-border>

⁵⁰ "Mexico: Asylum Seekers Face Abuses at Southern Border," Human Rights Watch news release, March 5, 2021, <https://www.hrw.org/news/2022/06/06/mexico-asylum-seekers-face-abuses-southern-border>; Lilian Hernández Osorio, "Entrega la Acnur a la Comar más del doble de recursos que Gobernación," *La Jornada*, May 8, 2023, <https://www.jornada.com.mx/notas/2023/05/08/politica/entrega-la-acnur-a-la-comar-mas-del-doble-de-recursos-que-gobernacion/>

asylum in Mexico in 2022, but the government resolved just over 36,000 cases.⁵¹ In the first half of 2023, nearly 75,000 people applied for asylum in Mexico.⁵²

Recommendations:

- Ensure that allegations of abuses against migrants and asylum seekers are promptly investigated and prosecuted.
- Ensure that everyone detained by immigration agents or expelled from the US to Mexico can apply for refugee status, that these requests are promptly and fairly examined, and that no one is returned to a place where their safety would be at risk.
- End agreements that enable the expulsion of non-Mexicans from the US to Mexico.
- Ensure adequate funding and staff for COMAR.
- Ensure detained migrants can communicate with their families and include them in the National Detention Registry.

Discrimination against Minorities

31. In its 2018 UPR, Mexico accepted recommendations to take measures to combat discrimination against Indigenous people and those of African descent.⁵³ However, racial discrimination continues to be a problem, particularly in immigration enforcement.

32. Mexico operates internal immigration checkpoints throughout the country, staffed by soldiers and immigration agents. Often, they target people who are Black, Brown, or Indigenous, including Indigenous Mexicans and Afro-Mexicans who are frequently detained, harassed, or even wrongfully deported.⁵⁴

33. In 2022, Mexico's Supreme Court ruled that the legal provision allowing immigration agents to stop anyone and demand proof of their legal status is discriminatory because it disproportionately impacts Indigenous and Afro-Mexican

⁵¹ Secretaría de Gobernación, "La COMAR en números: junio 2023," July 4, 2023, <https://www.gob.mx/comar/articulos/la-comar-en-numeros-338814?idiom=es>

⁵² Ibid.

⁵³ A/HRC/40/8. Recommendations 132.20 (Honduras), 132.242 (Islamic Republic of Iran), 132.28 (Botswana), 132.238 (Egypt), 132.245 (Rwanda) <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

⁵⁴ Tyler Mattiace, "Mexico's Supreme Court Bans 'Random' Immigration Checks," commentary, Human Rights Watch dispatch, May 26, 2022, <https://www.hrw.org/news/2022/05/26/mexicos-supreme-court-bans-random-immigration-checks>

people.⁵⁵ However, Congress has not yet amended the law to prohibit racially discriminatory immigration checks.⁵⁶

Recommendations:

- Repeal the provision allowing immigration agents to conduct racially discriminatory immigration checks in the interior of the country.

People with Disabilities

34. In its 2018 UPR, Mexico agreed to take steps to protect the rights of people with disabilities, including supporting their ability to participate in their communities and making efforts to eliminate all forms of domestic and institutional degrading treatment.⁵⁷

35. In April 2023, Mexico's Congress amended the National Civil Procedural Code to recognize the full legal capacity of everyone 18 and older and the right to supported decision-making.⁵⁸ However, state legislatures have not yet reformed their civil codes in line with international human rights standards, meaning that many people with disabilities are still unable to exercise their right to full legal capacity.

36. Mexico adopted amendments to its General Health Act in May 2022 establishing the right to mental health community support and robust provisions on informed consent, as well as the prohibition of involuntary treatment and hospitalization.⁵⁹ However, thousands of people with psychosocial disabilities (mental health conditions) or with problematic use of drugs remain permanently in institutions.⁶⁰ The amendment includes provisions to provide mental health services in first level hospitals and orders

⁵⁵ "El procedimiento de revisión migratoria que se efectúa en lugares distintos al de tránsito internacional es inconstitucional por aplicarse a personas nacionales y extranjeras sin distinción alguna: Primera Sala," Supreme Court news release, May 19, 2022, <https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=6906>

⁵⁶ Ari Sawyer, "Mexico's Congress Should Ban Discriminatory Immigration Checks," commentary, Human Rights Watch dispatch, April 25, 2023, <https://www.hrw.org/news/2023/04/25/mexicos-congress-should-ban-discriminatory-immigration-checks>.

⁵⁷ A/HRC/40/8. Recommendations 132.247 (Bulgaria), 132.18 (Bhutan), 132.249 (Djibouti) <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

⁵⁸ Carlos Ríos Espinosa (Human Rights Watch), "A Procedure Centered in the Person," commentary, *El País*, April 25, 2023, <https://www.hrw.org/news/2023/04/25/procedure-centered-person>.

⁵⁹ "Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Ley General de Salud, en materia de Salud Mental y Adicciones," *Diario Oficial de la Federación*, May 16, 2022, https://www.dof.gob.mx/nota_detalle.php?codigo=5652074.

⁶⁰ Instituto Nacional de Estadística y Geografía (INEGI), Censo de Alojamientos de Asistencia Social 2015, <https://www.inegi.org.mx/rnm/index.php/catalog/217>.

the reconversion of psychiatric hospitals to provide mental health services in the community.

Recommendations:

- Harmonize state and federal laws so that everyone 18 and older is able to exercise their rights to full legal capacity and supported decision-making.
- Fully implement the amendments to the General Health Act, to allow people living in psychiatric facilities to access to access support enabling them to live in their communities.

Abortion Rights

37. In its 2018 UPR, Mexico accepted recommendations to harmonize state and federal legislation to ensure that everyone can access safe and legal abortion regardless of their place of residence.⁶¹ Since 2018, abortion access has expanded but is still heavily restricted in 21 of the 32 states, which allow abortion only in certain cases, such as rape.⁶² Even where abortion is permitted, people face barriers when trying to access abortion.

38. The Supreme Court ruled in 2021 that absolute criminalization of abortion is unconstitutional, and that people should not be criminally prosecuted for undergoing the procedure; that state governments do not have the authority to legislate that life begins at conception; and that medical staff's right to conscientiously object to performing abortions is subject to limits.⁶³

Recommendations:

- Harmonize laws in line with recent Supreme Court rulings to decriminalize abortion across all states to ensure that everyone can access free, safe, and legal

⁶¹ A/HRC/40/8. Recommendations 132.206 (Iceland), 132.178 (Denmark, Georgia, Slovenia), 132.175 (Azerbaijan) <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/40/8/Add.1&Lang=E>

⁶² Human Rights Watch, "Mexico" in *World Report 2023* (Human Rights Watch: New York 2023), pp. 415-416, <https://www.hrw.org/world-report/2023/country-chapters/mexico#49dda6>

⁶³ "Suprema Corte Declara Inconstitucional La Criminalización Total del Aborto," Supreme Court news release, September 7, 2021, <https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=6579>; "SCJN Invalida Disposición de la Constitución de Sinaloa que Tutelaba el Derecho a la Vida desde la Concepción y Limitaba el Derecho a las Mujeres a la Autonomía Reproductiva," Supreme Court news release, September 9, 2021, <https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=6581>; "La SCJN Determina Establecer Lineamientos para La Objeción de Conciencia del Personal Médico y de Enfermería, Exhortando al Congreso de la Unión para que Legisle en la Materia sin Desproteger el Derecho a la Salud," Supreme Court news release, September 21, 2021, <https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=6585>.

abortion, regardless of their place of residence.