

JOINT REPORT OF CIVIL SOCIETY ORGANIZATIONS IN RELATION TO THE FOURTH CYCLE OF THE UNIVERSAL PERIODIC REVIEW (UPR) OF THE MEXICAN STATE

SOCIAL PROTEST IN MEXICO



CENTRO DE DERECHOS HUMANOS
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CONTENT

Recommendations from the previous cycle	2
Overview of the right to protest in Mexico	2
Stigmatization of social protest	3
Repression of social protest	4
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Criminalization of social protest	7
Social protest in the context of militarization	8
Recommendations	10

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Recommendations from the previous cycle

1. In 2018, in the previous Universal Periodic Review, Mexico received 264 recommendations, of which it accepted 262 and noted 2.¹
2. Regarding the right to protest, there were no recommendations. However, it is of utmost relevance to highlight that regarding the use of force, Mexico supported recommendations to ensure that human rights violations committed by or with the acquiescence of the Armed and/or Security Forces are investigated, sanctioned and repaired.² Mexico accepted a recommendation that raised the need to adopt additional measures on the limits of the use of force.³ Unfortunately, to date, major challenges remain in addressing impunity for human rights violations committed by the Armed Forces and by elements of Public Security.

Overview of the right to protest in Mexico

3. In the last five years, people exercising their right to protest have suffered multiple violations of their human rights, such as arbitrary detentions, excessive use of force, acts of torture and other cruel, inhuman or degrading treatment or punishment, and enforced disappearances. These human rights violations, in some cases, have succeeded in repressing, dissuading or inhibiting the critical voices of those who protest for different reasons, including the failure of the state to uphold human rights or to address the situation of violence in the country.⁴
4. In addition to the above, it is important to point out that human rights defenders who carry out documentation, accompaniment, advocacy and public denunciation work have been discredited and subjected to acts of harassment, threats and aggression. Likewise, the work of journalists has been hindered, and they have also been victims of theft and destruction of their work equipment, physical and verbal aggressions, among others, due to their work.

¹ Consejo de Derechos Humanos (2021). *Informe del Consejo de Derechos Humanos sobre su 40º período de sesiones*, A/HRC/40/2, Ginebra: Naciones Unidas, p. 54. Recuperado el 24 de Junio de 2023, de <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session40/list-reports>

²A/HRC/40/8. Recommendations on enforced disappearances: 132.7 (Paraguay), 132.8 (Benin), 132.9 (Uruguay), 132.10 (Costa Rica), 132.47 (Botswana), 132.48 (Czechia), 132.49 (Germany), 132.51 (Italy), 132.53 (Republic of Korea), 132.54 (Spain), 132.55 (Switzerland), 132.56 (Turkey), 132.58 (Belarus), 132.63 (United States of America), 132.65 (Belgium), 132.68 (Canada), 132.69 (Chile), 132.72 (France), 132.74 (Ghana), 132.76 (Lithuania), 132.77 (Argentina), 132.81 (Poland), 132.83 (United States of America), 132.50 (Greece), 132.52 (Montenegro), 132.157 (Ireland), 132.156 (Hungary); recommendations on preventing torture: 132.11 (Belarus), 132.56 (Turkey), 132.57 (Finland), 132.58 (Belarus), 132.59 (Ghana), 132.60 (Norway), 132.83 (United States of America), 132.100 (New Zealand); recommendations on extrajudicial, summary or arbitrary executions: 132.11 (Belarus), 132.81 (Poland); recommendations on grave human rights violations: 132.71 (France), 132.86 (United Kingdom of Great Britain and Northern Ireland), 132.89 (Denmark).

³ A/HRC/40/8, recommendation 132.41 (Brazil)

⁴ OMCT (2021). *México: La tortura y la impunidad se agudizan en tiempos de pandemia*. Ginebra: OMCT, p. 41. Recuperado el 5 de mayo de 2023, de https://www.omct.org/site-resources/legacy/Informe-Tortura-y-Covid-19_Mexico_2021.pdf

Stigmatization of social protest

5. Since 2018 there has been a clear increase in the stigmatization of social protests and those who protest are being labelled as "violent" by the authorities at different levels of government.⁵ In morning press conferences, the President has harshly criticized journalists, feminists and civil society organizations that have questioned government actions, portraying such protesters as enemies of the state.⁶ In addition, the day before International Women's Day, the President publicly stated that feminist protesters were preparing with hammers, torches and Molotov cocktails and that this "does not aim for the defence of women. They are not even feminist - participants are conservatives against our transformation policy".⁷ This discourse has also permeated the media, causing a hostile environment for those who exercise this right, delegitimizing their struggles and making it easier for them to be victims of physical and digital violence or other repressive and criminalization actions.

Likewise, human rights organizations have been subjected to stigmatization and delegitimization campaigns because of their work in documenting the arbitrary acts that occur in the context of these protests and in advocating for the authorities to act in accordance with relevant international standards and protocols governing the use of force.⁸ In this context, they have been accused, among other things, of acts of vandalism, looting, and aggression.⁹ This has increased the conditions of risk and vulnerability for those working to defend and promote human rights.¹⁰

⁵ Amnistía Internacional (2021). *México: La Era de las Mujeres. Estigma y Violencia contra Mujeres que Protestan*. México: Amnistía Internacional, pp. 17 y 19. Recuperado el 9 de mayo de 2023, de <https://amnistia.org.mx/contenido/wp-content/uploads/2021/03/VF-Mexico-La-Era-de-las-Mujeres-FINAL.pdf>

⁶ Amnistía Internacional (2023). *Informe 2022/23. La Situación de los Derechos Humanos en el Mundo*. Reino Unido: Amnistía Internacional, p. 316. Recuperado el 23 de junio de 2023, de https://www.es.amnesty.org/fileadmin/user_upload/Informe_2022-23_Amnistia_Internacional.pdf

⁷ Ídem.

⁸ Frente por la Libertad de Expresión y Protesta Social (2020). *El Frente por la libertad de Expresión y la Protesta Social, la Red Rompe el Miedo, así como las organizaciones y personas firmantes expresamos nuestro apoyo y solidaridad hacia el colectivo Brigada Humanitaria de Paz Marabunta, cuya labor de observación y mediación en contextos de manifestaciones ha sido de invaluable apoyo durante 8 años*. Recuperado el 24 de junio de 2023, de https://desinformemonos.org/wp-content/uploads/2020/06/FLEPS.FLEPS_Carta-conjunta-en-apoyo-a-Marabunta2.pdf

Centro de Justicia para la Paz y el Desarrollo Et Al (2020). *Carta Aclaratoria*. México: Gobierno de México. Recuperado el 8 de mayo de 2023, de https://twitter.com/CEPAD_AC/status/1270841302272274432/photo/1

⁹ Azteca Noticias (2020). *Reportaje sobre Brigada Humanitaria de Paz Marabunta*. Recuperado el 26 de junio de 2023, de <https://twitter.com/AztecaNoticias/status/1270561539041439744?s=20>

Tercera Vía (2020). *Javier Alatorre acusa de vandalismo a la Brigada Marabunta*. Recuperado el 26 de junio de 2023, de <https://terceravia.mx/2020/06/javier-alatorre-acusa-de-vandalismo-a-la-brigada-marabunta/>

Business Insider Mexico (2020). *Qué es la Brigada Marabunta, qué hace para mantener la paz en las protestas y por qué fue acusada de vandalismo*. Recuperado el 26 de junio de 2023, de <https://businessinsider.mx/la-verdadera-labor-de-brigada-marabunta-colectivo-que-busca-mantener-la-paz-en-las-protestas/>

¹⁰ Amnistía Internacional (2017). *Falsas sospechas. Detenciones arbitrarias por la policía en México*. México: Amnistía Internacional, pp. 14-15. Recuperado el 8 de mayo de 2023, de <https://amnistia.org.mx/contenido/wp-content/uploads/2020/06/Falsas-Sospechas.pdf>

Repression of social protest

- Excessive use of force
6. Despite of the fact that the police continue to routinely use excessive force in the context of social protest, the Human Rights National Commission (autonomous body responsible for the protection, observance, promotion, study and dissemination of human rights under Mexican law) has issued just two recommendations in the cases of Jalisco¹¹ and Puebla,¹² and a press release in the case of Guanajuato.¹³
 7. In this regard, civil society organizations have documented the absence of, or non-compliance with, protocols for the legitimate use of force by law enforcement officials. They have also documented irregular actions consisting of unjustified searches, inappropriate use of fire extinguishers, pepper spray, tear gas, explosive devices such as rockets, and the use of firearms that have been used against demonstrators.¹⁴ They have also expressed their concern about the participation of the armed forces in acts of repression of social protest.¹⁵
- Arbitrary Detention
8. One of the ways in which social protests have been repressed is through arbitrary detentions carried out mainly by the law enforcement officials in the different states. For example, from June 1, 2021 to May 31, 2022, civil society organizations registered 307 acts of arbitrary detention, of which 145 detentions were of women.¹⁶

¹¹ Comisión Nacional de Derechos Humanos (2021). *Recomendación No. 82/2021*. México: CNDH. Recuperado el 23 de junio de 2023, de https://www.cndh.org.mx/sites/default/files/documentos/2021-11/REC_2021_082.pdf

¹² Comisión Nacional de Derechos Humanos (2022). *Recomendación No. 161/2022*. México: CNDH. Recuperado el 23 de junio de 2023, de https://www.cndh.org.mx/sites/default/files/documentos/2022-08/REC_2022_161.pdf

¹³ Comisión Nacional de Derechos Humanos (2020). *La CNDH y la ONU-DH condena las agresiones contra manifestación pacífica en Guanajuato*. México: CNDH. Recuperado el 23 de junio de 2023, de https://www.cndh.org.mx/sites/default/files/documentos/2020-07/COM_2020_214.pdf

¹⁴ Red Rompe el Miedo Et Al (2022). *Estigmatización y violaciones a DH por parte del Estado en el contexto de la protesta feminista del #8M*. México: FLEPS. Recuperado el 9 de mayo de 2023, de <https://libertadyprotesta.org/protesta8m/>

Amnistía Internacional (2021) *México: La Era de las Mujeres. Estigma y Violencia contra Mujeres que Protestan*. México: Amnistía Internacional, pp. 40 y 41. Recuperado el 9 de mayo de 2023, de <https://amnistia.org.mx/contenido/wp-content/uploads/2021/03/VF-Mexico-La-Era-de-las-Mujeres-FINAL.pdf>

¹⁵ FLEPS (2022). *Posicionamiento ante protesta en San Gregorio Atlapulco, Xochimilco*. México: FLEPS. Recuperado el 8 de mayo de 2023, de https://twitter.com/Frente_Libertad/status/1598849434917273600?t=leJiRHdoLjAS8xEar2wv9g&s=19

Amnistía Internacional México (2022). *Condena por disparos por parte de elementos de la Guardia Nacional*. México: Amnistía Internacional. Recuperado el 8 de mayo de 2023, de https://twitter.com/amnistiamexico/status/1582431332856000512?t=N-YRdfd3NnJwZ1QV2_300A&s=

¹⁶ ACUDEH, AC; Comité Cerezo México; Campaña Nacional Contra la Desaparición Forzada (2022). *Defender los derechos humanos en México: Entre la omisión y la simulación*. México: Comité Cerezo, Recuperado de: <https://www.comitecerezo.org/spip.php?article3849&lang=es>

9. Arbitrary detention has been a common response by the authorities to social protest, as this type of practice has been documented in at least 18 states of Mexico.¹⁷ It is worth mentioning that arbitrary arrests have been carried out with excessive force and by non-uniformed authorities and/or authorities who did not identify themselves beforehand. All of these are intimidation tactics aimed precisely to prevent and chill the effective exercise of the rights to freedom of expression, association, peaceful assembly and protest. It has also been documented that detained persons are not immediately transferred or brought before the Public Prosecutor's Office or the competent judge – which both violates the right to personal liberty and places such persons at greater risk of other serious human rights violations.¹⁸

- Torture and Sexual Torture

10. Civil society organizations have also documented cases of demonstrators being arbitrarily detained and being subjected to acts of torture and other cruel, inhuman or degrading treatment or punishment. In this respect, civil society organizations¹⁹ have documented that in the states of Guanajuato²⁰, Jalisco²¹, Chiapas²² and Cancun²³, protesters have been subjected to acts of physical and psychological torture or other ill-treatment such threats of harm to their integrity, or death;²⁴ beatings to various parts of

¹⁷ ONDA (2020). *Monitoreo de medios sobre casos de detención arbitraria e ilegal*. México: ONDA Recuperado el 9 de mayo de 2023, de: <https://ondamexico.org/datos/>

A. Ruiz (2022). *Querétaro: centenar de antimotines, enfrentamientos y detenciones arbitrarias contra manifestantes por el agua*. México: Pie de Página. Recuperado el 6 de mayo de 2023, de: <https://piedepagina.mx/queretaro-centenar-de-antimotines-enfrentamientos-y-detenciones-arbitrarias-contra-manifestantes-por-el-agua/>

Amnistía Internacional (2021). *México: La era de las mujeres. Estigma y violencia contra mujeres que protestan*. México: Amnistía Internacional (Pág. 20) Recuperado el 9 de mayo de 2023, de <https://amnistia.org.mx/contenido/wp-content/uploads/2021/03/VF-Mexico-La-Era-de-las-Mujeres-FINAL.pdf>

¹⁸ Amnistía Internacional (2021). *México: La era de las mujeres. Estigma y violencia contra mujeres que protestan*, México: Amnistía Internacional, (pp. 6, 21, 25 y 38), Recuperado el 9 de mayo de 2023, de: <https://amnistia.org.mx/contenido/wp-content/uploads/2021/03/VF-Mexico-La-Era-de-las-Mujeres-FINAL.pdf>

¹⁹ OMCT Et al (2021). *México: La tortura y la impunidad se agudizan en tiempos de pandemia*. México: OMCT, (Pág. 6) Recuperado el 5 de mayo de 2023, de: https://www.omct.org/site-resources/legacy/Informe-Tortura-y-Covid-19_Mexico_2021.pdf

²⁰ FLEPS (2022). *Policía municipal de Irapuato reprime, agrede y detiene arbitrariamente a manifestantes y prensa*. México: FLEPS, Recuperado el 9 de mayo de 2023, de <https://libertadyprotesta.org/irapuato/>

²¹ CEJIL Et al (2021). *Organizaciones internacionales exigen #JusticiaparaGiovanni y para las víctimas de violaciones de derechos humanos ocurridas en las protestas de Guadalajara, Jalisco*. México: CEJIL, Recuperado el 8 de mayo de 2023, de <https://cejil.org/comunicado-de-prensa/organizaciones-internacionales-exigen-justiciaparaGiovanni-y-para-las-victimas-de-violaciones-de-derechos-humanos-ocurridas-en-las-protestas-de-guadalajara-jalisco/>

CEPAD (2022). *Conversatorio Represión: La respuesta ante la protesta social*. México: CEPAD, Recuperado el 3 de mayo de 2023, de <https://www.facebook.com/CEPAD.GDL/videos/689343332359809>

²² Amnistía Internacional. (2022). *El derecho a la protesta está bajo amenaza en México*. México: Amnistía Internacional. Recuperado de: <https://www.amnesty.org/es/latest/news/2022/05/derecho-protesta-bajo-amenaza-mexico/>

²³ Amnistía Internacional (2021). *México: La era de las mujeres. Estigma y violencia contra mujeres que protestan*. México: Amnistía Internacional. Pág. 20. Recuperado el 9 de mayo de 2023 de: <https://amnistia.org.mx/contenido/wp-content/uploads/2021/03/VF-Mexico-La-Era-de-las-Mujeres-FINAL.pdf>

CMDPDH. (2022) Caso 9N, México: CMPDH, Recuperado de_ <https://cmdpdh.org/comite-de-victimas-9n/>

²⁴ Esquer, S. (2021). *Nos balearon*, México: CIMAC noticias, Recuperado de_ <https://cimacnoticias.com.mx/2021/11/26/nos-balearon/#gsc.tab=0>

the body; hanging, teasing, forced positions, witnessing the torture of other people, incommunicado detention and being deprived of medical attention.

11. In particular, there have been documented cases of sexual torture against women who have exercised their legitimate and human right to protest, including rape and threats of rape, sexual touching, forced nudity and sexual harassment. Civil society organizations mention that these acts have been committed as a form of discipline and punishment of women for having defied the gender stereotypes rooted in Mexico, according to which women should remain in the private sphere and specifically, be responsible for domestic, reproductive and care work.²⁵

- Enforced Disappearance

12. During acts of social protest, the commission of acts of enforced disappearance by elements of public security and law enforcement institutions has also been documented. Particularly relevant are the events that occurred on June 5, 2020 in Guadalajara, Jalisco,²⁶ where more than 50 people were victims of enforced disappearance in the surroundings of the Jalisco State Prosecutor's Office while on their way to the gathering that was to take place outside of it. For several hours they were held incommunicado, subjected to acts of physical and psychological torture, deprived of their freedom and robbed of their belongings. Later they were released in places far from the city.
13. In addition, civil society organizations²⁷ have documented that the fear of being forcibly disappeared has spread among the women protesters who were arbitrarily detained, since after being deprived of their freedom, many of them were transferred to unknown locations in unmarked vehicles during the night or early morning by police officers who did not identify themselves beforehand before being presented before the Public Prosecutor's Office.

- Impunity

14. Another common denominator that has characterized the situation of repression of social protest in Mexico is the lack of access to justice, truth and full reparation for human rights violations and crimes committed by federal, state and municipal

²⁵ Amnistía Internacional (2021). *México: La era de las mujeres. Estigma y violencia contra mujeres que protestan*. México: Amnistía Internacional. Recuperado el 9 de mayo de 2023, de <https://amnistia.org.mx/contenido/wp-content/uploads/2021/03/VF-Mexico-La-Era-de-las-Mujeres-FINAL.pdf>

²⁶ Comisión Estatal de Derechos Humanos Jalisco (2020). *Informe especial sobre las violaciones a derechos humanos cometidas durante las manifestaciones ocurridas en Guadalajara del 4 al 9 de junio de 2020*. México: CEDEHJ, Recuperado el 8 de mayo de 2023, de <http://historico.cedhj.org.mx/recomendaciones/inf.%20especiales/2020/INFORME%20ESPECIAL%20MANIFESTACIONES%2017%20de%20junio%20de%202020.pdf>

²⁷ Amnistía Internacional (2021) *México: La era de las mujeres. Estigma y violencia contra mujeres que protestan*. México: Amnistía Internacional, (pág. 36) Recuperado el 9 de mayo de 2023, de <https://amnistia.org.mx/contenido/wp-content/uploads/2021/03/VF-Mexico-La-Era-de-las-Mujeres-FINAL.pdf>

authorities.

15. According to what has been documented by civil society organizations, few investigation processes have been initiated, either by the District Attorneys or by the State Human Rights Commissions. Too often, investigations are simply closed due to a lack of effort to gather evidence.²⁸ Furthermore, even where investigations are pursued, neither the chain of command nor the involvement of hierarchical superiors are investigated, and the rights of the victims (such as receiving legal advice, cooperation from the Prosecutor's Office, obtaining effective and full reparation, or precautionary measures when necessary) have been obstructed or denied.²⁹

Criminalization of social protest

16. The criminalization of social protest is closely related to the nature of specific offenses and their use. In this sense, the IACHR³⁰ has suggested three ways in which protest is criminalized: i) as a result of the application of vague or ambiguous criminal offenses, ii) following from the direct criminalization of behaviours inherent to social protest, and iii) using a formalistic application of criminal offenses that wholly ignores the protest context and instead develops a literal interpretation or improperly extends the scope of the offence. In other words, "those behaviours commonly observed in protests, such as roadblocks or acts of disruption that, in themselves, do not affect goods such as the life, safety or freedom of people, are turned into criminal acts".³¹
17. In Mexico, various types of criminal offenses have been used to criminalize protest, one of the most common is crime for interrupting a general means of communication or transportation or their construction. For example, according to the data of the National Census of Government, Public Security and State Penitentiary System (INEGI, 2021),³² 40 people were deprived of liberty for the aforementioned crime in 2021.
18. There are various legislative provisions that have been used in the context of social protests to criminalize human rights defenders and activists who protest. For example, Article 185 of the Federal Criminal Code establishes that "when several persons in common agreement attempt to impede the execution of a public work or works, or the provision of a public service, **they will be punished with between three months to**

²⁸ Ibidem

²⁹ Oficina del Alto Comisionado de las Naciones Unidas (2021) *Intervención de Guillermo Fernández-Maldonado en la audiencia pública de la CIDH "Situación de los derechos humanos de mujeres y niñas en el contexto de las protestas en México"*. México: Naciones Unidas. Recuperado de: https://hchr.org.mx/discursos_cartas/intervencion-de-guillermo-fernandez-maldonado-en-la-audiencia-de-la-cidh-situacion-de-los-derechos-humanos-de-mujeres-y-ninas-en-el-contexto-de-las-protestas-en-mexico/

³⁰ RELA & CIDH. (2019). Protesta y Derechos Humanos. En *CIDH* (OEA/Ser.L/V/II). párr. 195.

³¹ Ibidem

³² INEGI (5 de marzo de 2021). *Censo Nacional de Gobierno, Seguridad Pública y Sistema Penitenciario Estatales*. México: INEGI, Recuperado el 25 de abril de 2023, de <https://www.inegi.org.mx/programas/cngspspe/2020/#Tabulados>

one year in prison, if only a simple material opposition without violence is made".

19. During the year 2021, article 533 of the General Communications Roads Law was amended. It establishes that:

Whoever damages or destroys a general means of communication or transportation, or interrupts the construction of such means, or in order to obtain a profit, interrupts the public transport and the operation of toll services, or totally or partially interrupts or obstructs the other services of communication or transportation, shall be punished with three months to seven years in prison and a fine of 100 to 500 times the daily value of the Unit of Measurement and Updating (UMA).³³

20. This article is ambiguous and over-inclusive because it describes behaviours entailed by a large number of communicative activities that occur on a daily basis or that are protected under human rights law.
21. Also, social protest has been criminalized through the opening of criminal proceedings against protesters for offenses such as gang membership, damage to property, resistance to arrest, injuries or disobedience.

Social protest in the context of militarization

22. Militarization is permeating the political and public life of the country, reaching public security institutions and directly impacting police tasks. This context of militarization led to the creation of a National Law on the Use of Force in 2019.³⁴ In its seventh chapter, article 27, the use of weapons in protests with "lawful purpose" is prohibited and guides police action to the protection of the people participating in those types of protests. One point worth critiquing here is the weight placed on whether a protest is lawful or unlawful - whereas international human rights law asks instead whether it is peaceful or non-peaceful (so that even unlawful but peaceful protest falls within the protective scope of the rights engaged).
23. In addition, there is an opacity in the classification of protests as peaceful or violent, since article 28 legitimizes the use of force when protests "become violent". In this regard, it is important to mention that no matter the reason for the protest, the authorities should not use force to silence it. Force must only be used if it is necessary (and thus, only if non-forceful means have been exhausted), and then only against those individuals who themselves engage in violence or endanger other people. Any use of force must be carried out in accordance with relevant international human rights law and

³³ Párrafo reformado DOF 15-06-1992, 19-02-2021, 22-02-2022

³⁴ Ley Nacional Sobre el uso de la Fuerza (2022) *Ley de 2019. Por lo cual se expide Ley Nacional sobre el uso de la fuerza.* <https://www.diputados.gob.mx/LeyesBiblio/pdf/LNUF.pdf>

standards.³⁵

24. Although the police apparatus has not yet been imbued with military doctrine, the National Guard is gaining relevance due to its affiliation with the Secretariat of National Defence³⁶ and the Executive's ruling that endorses the presence of the Armed Forces in security tasks until 2024³⁷ and thereafter until 2028.³⁸ However, on April 20, the Supreme Court of Justice of the Nation (SCJN) ruled to disincorporate the National Guard (GN) from the Secretariat of National Defence (SEDENA) and reincorporated it into the Secretariat of Security and Citizen Protection as of January 1, 2024.³⁹
25. As a result, in his press conference, the President stated that next year - before the end of his mandate- he will send a new reform initiative to Congress to complete the re-assignment of the GN to the Secretariat of National Defence (SEDENA) within the framework of the change in the federal Congress.⁴⁰
26. This institution has its guiding document, the National Guard Law⁴¹. This law dedicates its third chapter to complementary provisions, and because of the ambiguity inherent in Articles 94 and 95 the actions of the National Guard in public security tasks are legitimized, including in the case of social protest. Since its creation the Guard has had allegations of human rights violations in Chihuahua⁴² and Chiapas⁴³ when acting at protests.

³⁵ Amnistía Internacional. (2021). *México: Cinco cosas de la nueva Ley del Uso de la Fuerza que deben cambiar*. México: Amnistía Internacional, Recuperado de: <https://www.amnesty.org/es/latest/news/2019/10/mexico-ley-del-uso-fuerza-debe-cambiar/>

³⁶ Secretaría de Gobernación (2022) *Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Ley Orgánica de la Administración Pública Federal; de la Ley de la Guardia Nacional; de la Ley Orgánica del Ejército y Fuerza Aérea Mexicanos, y de la Ley de Ascensos y Recompensas del Ejército y Fuerza Aérea Mexicanos, en Materia de Guardia Nacional y Seguridad Pública*, México: Secretaría de Gobernación, Recuperado de: dof.gob.mx/nota_detalle.php?codigo=5664065&fecha=09/09/2022#gsc.tab=0

³⁷ Secretaría de Gobernación (2020) *Acuerdo por el que se dispone de la Fuerza Armada permanente para llevar a cabo tareas de seguridad pública de manera extraordinaria, regulada, fiscalizada, subordinada y complementaria*, México: Secretaría de Gobernación, Recuperado de: dof.gob.mx/nota_detalle.php?codigo=5593105&fecha=11/05/2020#gsc.tab=0

³⁸ Secretaría de Gobernación (2022) *Decreto por el que se reforma el Artículo Quinto Transitorio del Decreto por el que se reforman, adicionan y derogan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en materia de Guardia Nacional*, México: Secretaría de Gobernación, Recuperado de: dof.gob.mx/nota_detalle.php?codigo=5671829&fecha=18/11/2022#gsc.tab=0

³⁹ SCJN. (2023) *SCJN invalida el traslado del control operativo y administrativo de la guardia nacional a la secretaría de la defensa nacional*, México: SCJN, Recuperado de: <https://www.internet2.scjn.gob.mx/red2/comunicados/noticia.asp?id=7326>

⁴⁰ Gobierno de México. (2023) *Versión estenográfica. Conferencia de prensa del presidente Andrés Manuel López Obrador*, México: Gobierno de México. Recuperado de: <https://www.gob.mx/presidencia/articulos/version-estenografica-conferencia-de-prensa-del-presidente-andres-manuel-lopez-obrador-del-20-de-abril-de-2023>

⁴¹ Ley de la Guardia Nacional (2020) *Ley de 2019. Por lo cual se expide Ley de la Guardia Nacional*. <https://www.diputados.gob.mx/LeyesBiblio/pdf/LGN.pdf>

⁴² Amnistía Internacional. (2021). *La nueva Guardia Nacional de México está rompiendo su juramento de respetar los derechos humanos*. México: Amnistía Internacional. <https://www.amnesty.org/es/latest/news/2020/11/mexicos-national-guard-breaking-vow-respect-human-rights/>

⁴³ De La Frontera Norte, E. C. (2020). *Guardia Nacional reprime violentamente protesta de migrantes en Tapachula, Chiapas*. México: Observatorio de Legislación Migratoria. <https://observatoriocolef.org/noticias/guardia-nacional-reprime-violentamente-protesta-de-migrantes-en-tapachula-chiapas/>

27. It should be noted that the United Nations Human Rights Committee in General Comment 37 has pointed out that militarization in protests can be dangerous and states that the armed forces should not be used to police protests and that, if deployed as support in exceptional circumstances and on a temporary basis, they should have received adequate human rights training and comply with the same laws and international standards that law enforcement officials are obliged to obey.⁴⁴

Recommendations

29. Ensure ongoing recognition through the most wide-ranging means available of the legitimacy of the right to protest as a factor that contributes to strengthening the rule of law and, in turn, refrain from making stigmatizing statements against social protests.
30. Ensure that the State and Federal Prosecutor's Offices as well as the State and National Human Rights Commissions carry out prompt, thorough, independent and impartial investigations into complaints of human rights violations and crimes committed in the context of social protests (including, as may be relevant, investigations into the law enforcement chain of command), ensuring that these are carried out with a gender perspective and human rights approach, as well as the participation of the victims, their legal representatives and human rights organizations accompanying them.
31. Modify or repeal those legislative provisions at the federal, state and municipal levels that undermine the right to freedom of expression, peaceful assembly, association and protest so as to ensure that the legal framework is fully in accordance with relevant international law and standards. Among them, modify Article 533 of the Law of General Communication Roads and Article 185 of the Federal Criminal Code to ensure that these crimes are not unduly applied in the context of protest.
32. Ensure the creation of truly independent police oversight mechanisms that have adequate funding, participation of civil society, institutional legitimacy and powers to access information and proactively review patterns of misconduct by police officers as well as powers to compel a response from the concerned authorities to any findings, conclusions and recommendations (if necessary, with the option for a judicial review).
33. Repeal Articles 27 and 28 of the National Law on the Use of Force and ensure that the use of force during protests complies with relevant international law and

⁴⁴ Comité de Derechos Humanos de Naciones Unidas, *Observación General No. 37 Artículo 21: Derecho de reunión pacífica*, (17 de septiembre de 2020), párr. 80. Recuperado de <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsrdB0H1I5979OVGGb%2BWPAXj3%2Bho0P51AAHSqSubYW2%2FRWvqeXcmwcJPCLnvmaZpSJEbfB4flbHl%2FZJNeiAUlys1WX8gRUG7qPXbYwn%2B1weWE>

standards, in particular, the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In addition, ensure that institutions, as well as law enforcement officials, fulfil their obligations to protect and facilitate the right to protest, use force only after other non-forceful means have been shown to be ineffective, and are held accountable for their actions in the context of the right to protest.

34. Exclude the armed forces and agencies adjacent to them – such as the National Guard – from acting in social protests.

