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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Mexico

Concluding observations (127th session):	CCPR/C/MEX/CO/6, 1 November 2019
Follow-up paragraphs:	19, 23 and 43
Information received from State party:	CCPR/C/MEX/FCO/6, 5 November 2021 Annex 1, 5 November 2021 Annex 2, 5 November 2021
Information received from stakeholders:	Fundación para la Justicia y el Estado Democrático de Derecho and Trial International, 30 July 2021; Propuesta Cívica, 3 April 2023
Committee's evaluation:	19 [B], 23 [B] and 43 [C]

Paragraph 19: Right to life and security of person

The State party should move away from the militarized approach within the forces of order, move forward in the process of cementing the National Guard as a civilian institution and draw up a plan to ensure the armed forces' progressive and orderly withdrawal from public security operations. In this connection, the State party should ensure that the armed forces are involved in operations of this kind in exceptional circumstances only, for limited periods of time, in accordance with clear, pre-established protocols and subject to the supervision of civilian oversight and accountability mechanisms. It should also continue its efforts to provide all officers of the National Guard with intensive training in international human rights standards and consider introducing break periods for officers transferring from the armed forces to the National Guard. The State party should also ensure that all cases of alleged extrajudicial killings and human rights violations are investigated in a prompt, thorough and impartial manner, that the perpetrators are prosecuted and punished and that the victims receive full reparation. The State party should, as a matter of urgency, adopt policies that are effective in reducing homicides and extrajudicial killings.

* Adopted by the Committee at its 138th session (26 June–26 July 2023).

Summary of the information received from the State party

In February 2021, the Senate introduced a bill to regulate the temporary participation of the standing armed forces in public security tasks. The bill has been sent to the joint committees on the interior, public security and legislative studies.

The Ministry of Defence has a general cooperation agreement with the National Human Rights Commission under which the Commission conducts courses on human rights for generals, chiefs, officers and troops in the framework of annual programmes for the promotion and strengthening of human rights and international humanitarian law. The programmes are updated annually. In coordination with the International Committee of the Red Cross, training in international humanitarian law was provided for military personnel during the reporting period.

Between November 2019 and July 2021, the Executive Commission for Victim Support issued 130 comprehensive reparation orders in favour of victims of human rights violations, all in a timely manner, taking into consideration the procedures, activities and fundamental principles established in the Comprehensive Model of Victim Support. The various directorates of the Executive Commission provided victims with guidance, advice, representation and legal assistance, in accordance with the recommendations of the National Human Rights Commission.

The Act on the Attorney General's Office, published in the Official Gazette on 20 May 2021, empowers the Office of the Special Prosecutor for Human Rights to investigate and bring prosecutions in a number of deferral offences, including torture, enforced disappearance, violations of human rights, offences against journalists and offences involving members of indigenous communities. The Government has created the Visitel complaints channel to facilitate investigations. Members of the public can use the channel anonymously to report to the Federal Prosecution Service crimes allegedly committed by civil servants of the Attorney General's Office, including those involving alleged extrajudicial executions or human rights violations.

Committee's evaluation

[B]

The Committee welcomes the introduction of a bill to regulate the temporary participation of the armed forces in public security tasks, and the information provided on training for Ministry of Defence personnel, including military personnel. It requests further information on: (a) the aforementioned bill, including its current status, and any additional legislative or other changes concerning the National Guard and the armed forces and their role in public security; (b) whether any civilian oversight and accountability mechanisms for the armed forces' involvement in public security operations have been implemented or are envisaged; and (c) the number of times the armed forces have intervened in public security tasks during the reporting period, including the duration of the interventions and the circumstances under which they took place. The Committee takes note of the information concerning the efforts to improve investigations into and prosecutions of crimes committed, and the reparation provided to victims. Furthermore, it notes with interest the publication of the Act on the Attorney General's Office and the creation of the Visitel complaints channel. The Committee requests additional information on the impact of the Act and the complaints channel, including statistical data on the number of investigations, prosecutions and sanctions applied in cases of extrajudicial executions or human rights violations.

Paragraph 23: Impunity

The State party should step up its efforts to investigate all violent crimes and other serious offences, including the disappearance of the 43 students in Ayotzinapa in September 2014, in a prompt, thorough and impartial manner, to prosecute and punish those responsible and to ensure that the victims receive comprehensive reparation. To this end, it should increase the investigative capacity and independence of all actors involved in investigations, including prosecutors and experts, reinforce the adversarial

system and guarantee the autonomy of the country's judicial institutions. For all these purposes, it should take international human rights standards into consideration, including the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol). The State party should also take the necessary steps to protect witnesses, victims, their relatives and all persons involved in investigations from threats, attacks and any form of reprisals.

Summary of the information received from the State party

As at August 2021, the Commission for Truth and Access to Justice in the Ayotzinapa Case has held 14 evaluation and follow-up meetings in the presence of the President. Agreement was reached on strengthening institutional cooperation and, following a meeting with the Ministry of Defence, the Commission conducted an inspection visit to the Twenty-seventh Infantry Battalion in Iguala. A website has been created to enable the public to access information on the work of the Commission.

In order to build institutional investigatory capacity, on 6 May 2020 the Government reinstated the Interdisciplinary Group of Independent Experts, which has been working with the Commission for Truth and Access to Justice in the Ayotzinapa Case since July 2020 to assist the Special Unit for Investigation and Litigation in the Ayotzinapa Case. The Interdisciplinary Group reviewed military archives and digitized 17,000 documents from 453 case files.

On 5 March 2020, a cooperation agreement was signed for the clarification of the facts of the Ayotzinapa Case, leading to the formation of a prosecution group that issues and executes new arrest warrants and search warrants and extends the investigations to key individuals.

As part of its efforts to reinforce the adversarial judicial system, the Government is taking steps to harmonize the guidelines on different aspects of criminal prosecution. It has prepared a series of judicial guides on topics including juvenile hearings, the use of scientific evidence and individualized sentencing. The Unit for the Consolidation of the New Criminal Justice System has taken steps to increase institutional capacity for the effective administration of justice including, inter alia, the internal competitive examination for administrators, the change from a "hearing judge" to a "case judge" management system, and various training activities on adversarial justice for judges, including a course on the Istanbul Protocol.

On 7 May 2021, the Supreme Court published two opinions relating to victim compensation. In the first, concerning compensation in cases where victims of crime were minors, the Court established that the amount of compensation must be set at the time of the conviction, unless there is insufficient evidence to set an amount. The second opinion contains guidelines on deciding when the quantification of harm should be postponed until the sentence enforcement stage. Article 459 (I) of the Code of Criminal Procedure expressly empowers the victim or aggrieved party in a case to challenge decisions concerning compensation for harm caused, regardless of whether or not they are officially assisting the Public Prosecution Service.

Summary of the information received from stakeholders

Fundación para la Justicia y el Estado Democrático de Derecho and Trial International

The authorities do not apply a comprehensive and systematic approach when investigating violent crimes such as mass killings and arbitrary executions. This leads to a failure to link cases with previous crimes committed using similar patterns of behaviour, thus creating impunity for those responsible. The victims' families are also systematically denied access to the rights to assistance and reparation for damages established in the General Victims Act.

Committee's evaluation

[B]

The Committee welcomes the efforts made to increase institutional investigatory capacity, particularly in the institutions involved in the Ayotzinapa Case, and to reinforce the adversarial judicial system. Nevertheless, it is concerned at the reported systemic impunity

for those responsible for violent crimes such as mass killings and arbitrary executions. Furthermore, while taking note of the information on victims' right to appeal decisions and the guidelines on compensation for victims, the Committee is concerned at reports that victims' families face obstacles to accessing their rights to assistance and reparation for damages, as established under the General Victims Act. The Committee requests additional information, including disaggregated statistical data, on the prosecutions and sanctions handed down to those responsible for violent crimes, especially in cases of mass killings and arbitrary executions, and on the compensation provided to victims.

Paragraph 43: Freedom of expression and association

The Committee urges the State party to:

(a) **Strengthen the mechanism for the protection of human rights defenders and journalists and the state-level protection units by allocating sufficient financial and human resources for their work, incorporating a gender perspective into their activities, taking action to address structural risk factors on both a reactive and preventive basis and organizing activities that increase public awareness of the legitimacy of the mechanism's work;**

(b) **Strengthen the institutions responsible for law enforcement and the administration of justice, and also the administrative bodies responsible for internal oversight, so as to ensure that all attacks are investigated promptly, thoroughly, independently and impartially, that the perpetrators are brought to justice and that victims receive adequate assistance and comprehensive reparation;**

(c) **Ensure that guarantees of due process are upheld in cases in which human rights defenders and journalists stand accused of committing offences;**

(d) **Ensure that any restrictions on the right to freedom of opinion and expression and the right to freedom of assembly and association comply fully with the strict requirements set out in articles 19 (3), 21 and 22 (2) of the Covenant.**

Summary of the information received from the State party

(a) Following the April 2020 decree ordering the dissolution or termination of public trust funds, public mandates and the like, the National Human Rights Commission, the Mexican Federation of Public Human Rights Organizations and the Office of the United Nations High Commissioner for Human Rights (OHCHR) country office issued a statement regretting the decision to abolish those funds without ensuring the availability of alternative sources of funding for the protection of human rights. The current trust fund for the protection of human rights defenders and journalists has proved to be a useful tool for the rapid implementation of protection measures in cases of extreme urgency. Accordingly, the Mexican Federation of Public Human Rights Organizations, the National Human Rights Commission and the OHCHR country office have called for the rights of journalists and human rights defenders to be guaranteed to the maximum of available resources, and for the effectiveness of the current trust fund to be maintained or strengthened in any reform of the legal framework.

Regarding the incorporation of a gender perspective, the annual report of the National Protection Mechanism for Human Rights Defenders and Journalists of 31 December 2019 included a section on gender-based violence which, although it contained a breakdown of attacks on female journalists and human rights defenders, did not include a gender perspective. The Government has called for a gender perspective to be systematically mainstreamed at all stages of statistical production.

(b) The Special Prosecutor's Office for Crimes against Freedom of Expression, attached to the Attorney General's Office, handles all complaints of crimes against freedom of expression. Between its creation in 2016 and June 2021, the Office opened 592 investigations.

(c) and (d) The Supreme Court decided to repeal article 28 (III) of the Mexico City Civic Culture Act, which defined the unauthorized use of public space as an offence against public security. The Court considered that the provision violated the rights to freedom of expression,

assembly and association, since any requirement to request authorization for the use of public space would constitute prior censorship of the messages expressed and would make their dissemination contingent upon a decision of the authorities.

Summary of the information received from stakeholders

Propuesta Cívica

(a) Contrary to the assertions of the Government, institutional actions to protect human rights defenders and journalists are not prompt, and in fact turn out to be negligent and omissive. This is exemplified by the case of the murder of the journalist Gustavo Sánchez Cabrera, who was in the process of receiving urgent protection measures, which did not arrive in time to prevent his murder.

(b) The Harmonized Protocol on the Investigation of Crimes against Freedom of Expression is a significant step forward in terms of giving visibility and recognition to persons who are victims of a crime due to the exercise of freedom of expression. However, the Special Prosecutor's Office for Crimes against Freedom of Expression, which is in charge of applying the Protocol, has not disseminated any information on the specific parameters for its correct application. Although collaboration between state prosecutors' offices and the Special Prosecutor's Office is fundamental to prompt investigation and prosecution of homicides committed in different regions of the country, there is a lack of guidance in the Protocol as to when the Special Prosecutor's Office should take over jurisdiction in cases originally under the jurisdiction of a state prosecutor's office.

Committee's evaluation

[C]: (a), (b), (c) and (d)

(a) The Committee takes note of the information provided indicating that the trust fund for the protection of human rights defenders and journalists is a useful tool in cases of extreme emergency. Nevertheless, it is concerned at reports that protection measures are not sufficient or effective, as in the case of Gustavo Sánchez Cabrera. The Committee regrets the lack of information regarding steps taken during the reporting period to strengthen the mechanism for the protection of human rights defenders and journalists and the state-level protection units. It reiterates its recommendation.

(b) The Committee takes note of the information on the investigations that were opened by June 2021. Nevertheless, it regrets the lack of information on steps taken during the reporting period to strengthen the institutions responsible for law enforcement and the administration of justice, and also the administrative bodies responsible for internal oversight. The Committee is concerned at the reported lack of specific parameters regarding the application of the Harmonized Protocol on the Investigation of Crimes against Freedom of Expression and requests further information in this regard. It reiterates its recommendation.

(c) and (d)

While taking note of the decision of the Supreme Court to repeal article 28 (III) of the Mexico City Civic Culture Act, the Committee regrets the lack of information on steps taken during the reporting period to ensure that guarantees of due process are upheld in cases in which human rights defenders and journalists stand accused of committing offences, and to ensure that any restrictions on the right to freedom of opinion and expression and the right to freedom of assembly and association comply fully with the Covenant. It reiterates its recommendation.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2026 (country review in 2027, in accordance with the predictable review cycle).