



## Sexual torture of women in Mexico

*Alternative report presented in June 2018 to the CEDAW Committee, which may be published on the Committee's website*

### I. Introduction: Center Prodh's work on sexual torture

The Miguel Agustín Pro Juárez Human Rights Center (Center Prodh), a Mexican NGO with consultative status, has defended human rights since 1988. One of our focus issues over the past several years has been the widespread use of sexual torture against detained women by Mexican civilian and military security forces.

We are one of four coordinating NGOs that accompany the national campaign “Breaking the Silence: All Together Against Sexual Torture”,<sup>1</sup> founded in 2014 by a group of women who survived and denounced this practice in San Salvador Atenco, Mexico State. We participated in a thematic hearing on this topic before the Inter-American Commission on Human Rights<sup>2</sup> and co-published a 2015 report detailing patterns of sexual torture of women.<sup>3</sup> We are also co-litigants, with the Center for Justice and International Law (CEJIL), of the case of sexual torture in San Salvador Atenco, currently before the Inter-American Court of Human Rights.<sup>4</sup> Most recently, we have documented 29 cases of women who suffered sexual torture and were subsequently imprisoned.

In the pages that follow we provide information on sexual torture of women in Mexico, highlighting the paradigmatic case of Taylín Narda Meylín Clotet Wang as an example. We also correct misinformation in the State's 9<sup>th</sup> periodic report relating to torture and to the Atenco case.

In light of the information presented, we propose priority recommendations.

### II. Sexual torture of women: an extreme form of gender discrimination

Torture is a generalized practice in Mexico, used by both civilian and military security forces<sup>5</sup>. When the victim is a woman, the prevailing *modus operandi* is to use sexual torture, ranging from

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<sup>1</sup> <http://centroprodh.org.mx/rompiendoelsilencio/>.

<sup>2</sup> <https://www.youtube.com/watch?v=yllxpWZrvD0>.

<sup>3</sup> Center Prodh, Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH), Tlachinollan Human Rights Center, & Just Associates (JASS), *Tortura Sexual en México. Contexto, prácticas e impactos* (2015), [http://centroprodh.org.mx/index.php?option=com\\_docman&Itemid=28&lang=es&limitstart=5](http://centroprodh.org.mx/index.php?option=com_docman&Itemid=28&lang=es&limitstart=5).

<sup>4</sup> See [http://www.oas.org/en/iachr/media\\_center/PReleases/2016/140.asp](http://www.oas.org/en/iachr/media_center/PReleases/2016/140.asp).

<sup>5</sup> In 2003, the CAT Committee found torture to be systematic in Mexico (ONU CAT/C/75, para. 218). In a 2014 country visit, the Special Rapporteur on Torture (at that time, Juan Méndez) found that torture remained a generalized practice (A/HRC/28/68/Add.3, Summary). In 2017, the Special Rapporteur (Nils Melzer) reaffirmed that conclusion in his follow-up report (A/HRC/34/54/Add.4, para. 21).

rape and other physical aggressions, to threats of such violence, combined with other actions and language that seek to exploit the victim's gender identity as a source of increased suffering and humiliation. The objectives of the torture, which normally follows an arbitrary detention, include forcing the woman to make an incriminating statement. In numerous documented cases, the victim is innocent of the crimes she is forced to describe.

As of March 2018, Center Prodh has had contact with over 110 cases in which women on trial denounce having suffered sexual torture.

International bodies have also documented this phenomenon. Following his 2014 country visit, the Special Rapporteur on Torture expressed his concern:

...about the use of sexual violence as a form of torture, mainly against women detainees. Sexual torture includes forced nudity, insults and verbal humiliation, groping of breasts and genitals, insertion of objects in the genitals and repeated rape by multiple individuals. Few of these cases have been investigated or punished, or else they have been classified as less serious conducts, and they present particular challenges for victims, who are often revictimized when they file complaints or undergo medical examinations.<sup>6</sup>

In 2016, Amnesty International documented this practice in *Surviving Death: Police and Military Torture of Women in Mexico*<sup>7</sup>. The report includes 100 cases of women who were detained in at least 19 different states (out of 32 in the country). Of the 100 women, 72 women said they were subjected to sexual violence, and 33 to rape, during their detention.<sup>8</sup>

Amnesty's findings led the organization to denounce "the highly sexual nature of the violence used during arrests of women" in Mexico, adding:

Sexual harassment and psychological abuse includes insults focused on their sex, as well as their real or perceived sexual orientation and gender identity, which on many occasions also include threats of rape against them or their family. Sexual violence usually includes groping of breasts, buttocks and genitals, beatings in the genital area, electric shocks to breasts or genitals, and rape with fingers, objects or penis.<sup>9</sup>

These findings coincide with Center Prodh's and other Mexican NGOs' findings. In the 2015 joint report referenced above, we describe the cases of 19 women who survived torture at the hands of different security forces, finding that these acts constitute an extreme form of gender discrimination.

Concretely, the sexual torture in those cases was accompanied by acts and insults referring to the social role historically assigned to women, such as torturers in the Navy forcing a victim to wash their clothes; insults related to the sexuality of the victim (chiding her for resisting by calling her "reluctant", or, by contrast, calling her a whore; telling her that she is enjoying the torture or that they are "showing" her "how it is done"); and finally, torturing women in front of their male

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<sup>6</sup> A/HRC/28/68/Add.3, para. 28.

<sup>7</sup> AMR 41/4237/2016, <https://www.amnesty.org/en/documents/amr41/4237/2016/en/>.

<sup>8</sup> Id., p. 22.

<sup>9</sup> Id., p. 20.

partners as a way to humiliate, intimidate, or coerce the partner, essentially using the woman's body as a battleground to show dominance over the male rival.<sup>10</sup>

Academic and governmental studies also begin to shed light on sexual torture. In a survey of 821 prisoners in 8 prisons, the Center for Economic Investigation and Teaching (CIDE), found that more than 57% of prisoners reported being beaten during their detention, but that of these, 27.8% of women reported suffering sexual violence as well, compared to 6.2% of men.<sup>11</sup> In a different survey of 950 prisoners in Mexico City and Mexico State, investigators found repeated instances in which female prisoners reported that during their interrogations they were threatened with rape.<sup>12</sup> A study by the Executive Commission for Victim Attention (CEAV) found that in National Human Rights Commission Recommendations from 2006 to 2015, all victims reporting sexual torture and mistreatment were women, whereas only 5% of victims reporting torture and mistreatment without a sexual component were women.<sup>13</sup>

Impunity for these crimes is essentially absolute<sup>14</sup>. We know of only three cases in which any perpetrators have been placed on trial for sexual torture of women: precisely the three cases brought before the Inter-American system (Inés Fernández Ortega, Valentina Rosendo Cantu, Atenco). None has led to a conviction, although at the time of writing, a verdict was expected soon in the case of Valentina Rosendo. The State party reports that four of its 32 states have issued final judgments in cases of torture against women, without specifying whether all of these are convictions, adding that these data "lack official validation".<sup>15</sup>

As a result of the thematic hearing on sexual torture held by the Inter-American Commission in 2015,<sup>16</sup> the government committed to creating an inter-institutional Mechanism to review cases and issue evaluations (*dictámenes*) to be taken into account in the torture investigations and/or criminal trials against the victims. The government inaugurated the Mechanism in September 2015<sup>17</sup>, incorporating the four NGOs who accompany the "Breaking the Silence" campaign (including Center Prodh). However, as of this report, the Mechanism has issued evaluations in just two cases, showing that it lacks the political support, resources, and priority needed to show a true commitment to eradicating this practice.

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<sup>10</sup> Center Prodh *et al.*, *Tortura Sexual en México. Contexto, prácticas e impactos* (2015), [http://centroprodh.org.mx/index.php?option=com\\_docman&Itemid=28&lang=es&limitstart=5](http://centroprodh.org.mx/index.php?option=com_docman&Itemid=28&lang=es&limitstart=5), p. 19-21.

<sup>11</sup> Center for Economic Investigation and Teaching (CIDE), *Resultados de la Primera Encuesta realizada a Población Interna en Centros Federales de Readaptación Social* (2012), <http://proyectojusticia.org/encuesta-a-poblacion-interna-en-centros-federales-de-readaptacion-social/>, p. 63.

<sup>12</sup> See Roberto Hernández, "Juicio a los Juicios Orales," Nexos, May 1, 2014, <https://www.nexos.com.mx/?p=20795>.

<sup>13</sup> Executive Commission for Victim Attention, *Índice de victimización de CNDH de recomendaciones de tortura y otros tratos o penas crueles, inhumanos o degradantes e Índice de recomendaciones de ombudsman estatales en México de tortura y otros tratos o penas crueles, inhumanos (2006-2015)* (2017), [https://www.gob.mx/cms/uploads/attachment/file/195015/I\\_NDICE\\_VICTIMIZACION\\_port\\_20feb.pdf](https://www.gob.mx/cms/uploads/attachment/file/195015/I_NDICE_VICTIMIZACION_port_20feb.pdf), p. 169. Though we cannot rule out male underreporting, these data nonetheless point to the presence of gender differences in the sexualization of torture.

<sup>14</sup> Impunity for torture of all kinds is near-absolute in Mexico, as reflected in recent Special Rapporteur country reports (A/HRC/28/68/Add.3, para. 32-34, A/HRC/34/54/Add.4, para. 34-35, 41-42).

<sup>15</sup> State party report, Annex 24, p. 5 and footnote 5.

<sup>16</sup> <https://www.youtube.com/watch?v=yllxpWZrvD0>.

<sup>17</sup> As confirmed in the State party report, para. 35 and Annex 15.

### **III. New data from 2017-2018 documentation project on sexual torture of 29 women**

As mentioned, we have recently documented 29 cases of sexual torture. Of these 29 women:

- 16 report having been raped.
  - 12 were rapes in which two or more perpetrators participated.
  - 8 were cases of rape with the male sexual organ; in none of these did the perpetrator wear a condom.
  - In 2 cases, the torturers raped the women in front of family members.
- Taking into account threats of rape, cases in which a rape was not completed due to external factors, etc., rape was present in some form in 27 cases.
- When perpetrators identified that the victim was pregnant, they commonly targeted violence towards the pregnancy and even told the victim that they would force a miscarriage.
  - 3 pregnant women suffered miscarriages following such torture.
- In 21 cases, the women were victims of forced nudity (partial or total).
- 25 women suffered biting, pinching, and other touching in sexual areas of their bodies.
- 8 women suffered violence designed to inflict severe pain in sexual areas (such as mutilation, beatings, electric shocks).
- 7 women were photographed or filmed in a sexualized way by the perpetrators.
- In 21 cases, the torture was accompanied by insults referring to the victims as “bitches,” “whores”, as well as language referring offensively to their sexual orientation.
- In the majority of cases in which the perpetrators learned that the victim was a mother, they threatened to rape her children.
- The sample included cases in which the victim was forced to perform stereotyped tasks for the torturers, such as cleaning.
- 27 women denounced torture to a judge, but only two know that an investigation was opened, and we know that in 18 cases, the judge did not order any investigation

### **IV. A paradigmatic case before Mexico’s courts: Taylín Narda Meylín Clotet Wang**

A case that exemplifies the above is that of Taylín Narda Meylín Clotet Wang. On February 7, 2014, federal police broke into Taylín’s house at 3am. While her children watched, the police pulled off Taylín’s robe and beat her in the head, ribs, and stomach, despite Taylín and her partner’s repeatedly yelling that Taylín was pregnant. The police held Taylín down while one officer placed himself on top of her, grabbing her breasts and genitals while the police threatened Taylín with gang rape and asked, “you like to sleep around, don’t you, like a whore?”

Taylín was brought to a police station where she and other detainees were beaten and threatened to force them to make statements about a kidnapping about which Taylín had no knowledge.<sup>18</sup> When Taylín was transferred to the Special Organized Crime Investigation Office (SEIDO) of the

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<sup>18</sup> State agents also recorded samples of her voice, with the object of incriminating her in the kidnapping. The voice recording would, however, later be declared inadmissible evidence.

federal prosecutor (PGR), she suffered a miscarriage, for which she received no medical attention.<sup>19</sup>

Apart from accompaniment by Center Prodh, Taylín's case has been documented by Amnesty International,<sup>20</sup> and Human Rights Watch cites the case as an example of how torture harms both the torture victims and the victims of the crimes supposedly being investigated.<sup>21</sup> Regarding the criminal charges against Taylín, Human Rights Watch observes, "The prosecution's case is full of holes," noting, "Over the past decade, Human Rights Watch has documented scores of cases of torture by security forces in Mexico [including] sexual violence, among other tactics, often with the aim of obtaining information or coercing incriminating statements."<sup>22</sup>

Four UN mandates -the rapporteurs on torture and VAW, and the working groups on arbitrary detention and discrimination against women- sent a communication to Mexico expressing their serious concern over this and 7 other cases of sexual torture of women.<sup>23</sup>

Taylín's ongoing trial is an opportunity for Mexican authorities to demonstrate their commitment to not tolerating sexual torture, to return Taylín's freedom and reunite her with her children, and to set an important legal precedent for other tribunals facing such cases.

## **V. Corrections to misinformation in the State party's report**

### *a. Atenco case*

In section XIV of its report ("The Atenco and Campo Algodonero cases"), the State affirms that the Inter-American Commission sent the Atenco case to the Inter-American Court so that the Court could "consider the suitability of the reparations measures [implemented by the State]",<sup>24</sup> adding that the State has taken all possible actions to guarantee justice and non-repetition.

This is incorrect, considering that the Inter-American Commission sent the case to the Court precisely because it observed the lack of action by the State to guarantee justice, as the Commission itself explained.<sup>25</sup> The Court will issue a judgment that in no way is limited to considering measures implemented by the State, but will include all factual and legal aspects of the case.

Further, the State has not acted with due diligence to punish sexual torture in Atenco.<sup>26</sup> No member of the Federal Police has been charged and there has never been a credible investigation

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<sup>19</sup> Four days after her arbitrary detention, Taylín was transferred to a federal prison, where her intake exam indicates that she was in a fragile state of health due to a partial abortion. The following day, prison officials took a blood sample and concluded that she was not pregnant.

<sup>20</sup> Amnesty International, *Surviving Death: Police and Military Torture of Women in Mexico* (2016), AMR 41/4237/2016, <https://www.amnesty.org/en/documents/amr41/4237/2016/en/>, p. 33.

<sup>21</sup> Daniel Wilkinson, "The High Cost of Torture in Mexico," *Animal Político*, February 14, 2017, <https://www.hrw.org/news/2017/02/14/high-cost-torture-mexico>.

<sup>22</sup> *Id.*

<sup>23</sup> UA MEX 6/2017 of October 20, 2017.

<sup>24</sup> State party report, para. 210.

<sup>25</sup> <http://www.oas.org/es/cidh/decisiones/corte/2016/12846NdeRes.pdf>.

<sup>26</sup> For more information on the Atenco case, we recall that this case was the subject of our alternative reports to the CEDAW Committee in 2006 and 2012 in conjunction with the World Organization Against

of the chain of command, considering that the torture took place during a police operation that included the systematic sexual torture of women.<sup>27</sup> Neither has there been an investigation against the perpetrators of sexual torture at the moment of the women's detention in private houses and in the streets. The low-level perpetrators currently on trial, all state-level agents, are accused of failing to prevent torture in the buses that transported the women to a detention center, and failing to properly document their injuries. None have been sentenced and a growing number have had the charges against them cancelled.

The State also informs that it created a reparations fund for the women of Atenco. This fund was created against the will of the women. The State published the creation of the fund and the names of the 11 women in the Mexico State official gazette in 2015, provoking the indignation of the victims, as expressed in the public statement made through their representatives condemning this governmental strategy as not only offensive but a security risk for the women.<sup>28</sup> For this reason, none of the women have received the reparations measures mentioned by the State in its 9<sup>th</sup> periodic report;<sup>29</sup> rather, they insist on the need to advance in the investigation of the case.<sup>30</sup>

Finally, the information offered in this report shows that the State has not effectively prevented the constant repetition of sexual torture of women.

#### *b. Other corrections regarding torture*

The State party affirms that 47% of Mexico's 32 states (*entidades federativas* or "EF") are preventing torture of women.<sup>31</sup> However, the source of this number is a questionnaire filled out by state Supreme Courts in which they were asked whether they had acted with due diligence to prevent torture of women, to which 15 responded "yes", 14 said "no", and 3 preferred not to answer.<sup>32</sup>

Given judicial authorities' frequent failure to comply with international standards in torture cases,<sup>33</sup> we consider that self-evaluations of this type are not a reliable measure of due diligence; much less do they show the behavior of state governments (including police, prosecutors, etc.), as the State party report gives to understand. While we thus consider this data without methodological rigor, it is troubling even so that nearly half of Supreme Courts answered that they do not act with due diligence in cases of torture of women.

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Torture (OMCT); we also refer the Committee to the Inter-American Commission's Merits Report on the case: <http://www.oas.org/es/cidh/decisiones/corte/2016/12846FondoEs.pdf>.

<sup>27</sup> See Recommendation 38/2006 of the National Human Rights Commission, [http://cndh.org.mx/sites/all/doc/Recomendaciones/2006/Rec\\_2006\\_038.pdf](http://cndh.org.mx/sites/all/doc/Recomendaciones/2006/Rec_2006_038.pdf), p. 12.

<sup>28</sup> <https://www.cejil.org/es/nueve-anos-mujeres-denunciantes-tortura-sexual-san-salvador-atenco-esperan-informe-final-cidh>.

<sup>29</sup> We refer to paragraphs 211 and 215.

<sup>30</sup> The only individual reparations measure implemented was the official recognition in 2017 of the innocence of one of the 11 women, who had continued to have a criminal record for the false accusations made against her following her arbitrary detention in 2006 (the other 10 women had already been acquitted of all such false charges).

<sup>31</sup> State party report, para. 86. See also Annex 24, p. 3.

<sup>32</sup> State party report, Annex 24 Bis, p. 14.

<sup>33</sup> See the 2017 Mexico follow-up report by the Rapporteur on Torture, A/HRC/34/54/Add.4, para. 40.

The State party also cites the national Supreme Court's rulings on confessions obtained under torture as an advance.<sup>34</sup> However, the Supreme Court's rulings have varied between advances and setbacks, with the latter evident in the past few months, including a binding ruling that complainants alleging that their convictions are based on evidence obtained under torture have the right to a retrial only if they personally incriminated themselves;<sup>35</sup> this language leaves open the admission of incriminating statements coerced from co-defendants or other victims of torture.

Finally, we note that the torture investigation Protocol cited by the State party<sup>36</sup> was replaced in February 2018 with a new Protocol.<sup>37</sup> The new Protocol represents a serious setback in torture investigation and violates Mexico's new General Law against torture, for which reason Center Prodh has filed a constitutional challenge (*amparo*) against it.

## **VI. Proposed recommendations**

In light of the above, we propose that the CEDAW Committee recommend that Mexico:

- Ensure that the case of Taylín Clotet Wang is resolved with full respect for international standards, taking into account the context of sexual torture in Mexico, so as to set a positive precedent in this area as well as to guarantee the victim's human rights.
- Ensure full compliance with the Inter-American Court's pending judgment in the Atenco case.
- Establish, through binding national jurisprudence, that absolutely no evidence obtained under torture is admissible, except as evidence against the torturers; thus, any use of evidence obtained under torture for a conviction should lead to a retrial.
- Significantly strengthen the inter-institutional Mechanism against sexual torture of women inaugurated in September 2015, ensuring that it has sufficient human and financial resources to promptly and diligently review all cases brought before it in order to issue the corresponding evaluations (*dictámenes*).
- Prioritize and redouble efforts to ensure the diligent investigation of all reports of sexual torture of women with a view to bringing to justice all of the perpetrators.

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<sup>34</sup> Paragraph 55.

<sup>35</sup> "TORTURA. ES INNECESARIO REPONER EL PROCEDIMIENTO CUANDO NO EXISTA CONFESIÓN DE LOS HECHOS IMPUTADOS O CUALQUIER ACTO QUE CONLLEVE AUTOINCRIMINACIÓN DEL INCULPADO." 1a./J. 101/2017 (10a.). Approved by the First Chamber of the Supreme Court on November 15, 2017. Register N°: 2015603.

<sup>36</sup> Paragraph 40.

<sup>37</sup> [https://aplicaciones.pgr.gob.mx/normatecasustantiva/Normateca%20Sustantiva/Prot\\_Inv\\_Tortura.pdf](https://aplicaciones.pgr.gob.mx/normatecasustantiva/Normateca%20Sustantiva/Prot_Inv_Tortura.pdf). The new Protocol mentions women twice, both times to say that when a woman denounces torture, preferably the doctors who examine her should be women, unless the victim expresses a different preference (and in the case of sexual violence, that the victim should receive gynecological attention). Id., p. 33, 53.