



# INFORME

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**REPORT PRESENTED BY THE HUMAN RIGHTS COMMISSION OF MEXICO CITY AS  
PART OF THE UNIVERSAL PERIODIC REVIEW TO MEXICO**

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The Human Rights Commission of Mexico City (CDHDF) is an public independent organism with legal personality and own property in charge of the protection, defense, monitoring of compliance with, study, education, and spreading of Human Rights established in the Mexican legal system and in international instruments on Human Rights, as well as of the fight against all forms of discrimination and exclusion, resulting from an order of the authority against of any individual or social group.

Considering the foregoing, this organism elaborates this document herein with the purpose of providing information on the situation in Mexico and the Federal District (hereinafter DF or Mexico City) in terms of Human Rights, by virtue of the upcoming appearance by Mexico before the Human Rights Council.

## **I. - Torture, related to UPR recommendations - 26, 27, 28, 40<sup>1</sup>**

§1. Mexico is part of all international instruments which proscribe torture and cruel, inhuman, or degrading treatment; however, the foregoing continue to be systematic practices in the system of criminal justice, mainly in the instances of investigation and law enforcement in the country, since forceful results related to prevention, eradication, and, least of all, to fighting against these practices have not been obtained. Furthermore, in most local legislations, the legal description of torture is not adjusted to the highest standard of protection particularly because the motives-purposes of the torture are expressed in *numerous clausus* and not openly as established in the *Inter-American Convention to Prevent and Punish Torture*. Particularly in Mexico City, the issuing of the Special Act to make the crime of torture justiciable, which up to this date has not been issued.

§2. Between 2009 and 2012, the CDHDF received 3,754 complaints<sup>2</sup> related to the *right to personal integrity*, out of which 2,005 complaints mentioned potential actions of torture. From these, the CDHDF has formulated 53 criminal complaints but in any case judicial authorities have begun any criminal action. This piece of data is similar to what has occurred in the last 6 years, since from the total of denounces presented before the PGJDF by any individual or entity, only one verdict of guilty on the grounds of torture has been issued.

§3. In Mexico City, authorities with most mentions as potential liable parties for violations are the Office of the Attorney General of Justice for Mexico City (PGJDF), the Mexican Ministry of Public Safety (SSPDF), and the Mexican Ministry of the Interior that is responsible for the penitentiary system. From the various expositions of facts, it can be deduced that the most used methods are: traumas caused by blunt objects, punching, kicking, lashings, wire lashings, slapping, smacking with clubs, suffocation through dry and wet methods, drowning, suffocation, strangling, as well as the use of chemical substances.

§4. There are structural conditions favoring the commission of torture, such as the lack of a registry and follow up of police work in all tranches of the registry and the detention chain, as well as the absence of an independent and unbiased institution in charge of the application of the "Istanbul Protocol", because the medical services associated to the Public Prosecutor are the ones that apply the Protocol even in cases where the potential responsible has been a police officer or agents of the institution itself. An example of it, is the recent recommendation by the CDHDF where it was documented that despite of the fact that conclusive

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<sup>1</sup> UPR Recommendation First Cycle: A – 26. To adopt all necessary measures in order to guarantee the effective application of the Federal Act to Prevent and Penalize Torture (Algeria, Portugal); A – 27. To adopt all necessary means to prevent and to prohibit torture practices and mistreatments (Japan, Uzbekistan), particularly by safety and security forces in prisons, as pointed out by a number of special rapporteurs (France); A – 28. To have early, effective, and unbiased investigations made for all denounces of torture (Uzbekistan) and to fight impunity in this regard (France); A – 40. To apply with promptness the judicial reform so that all denounces on torture, arbitrary detention, and enforced disappearances are thoroughly investigated (Peru), in strict accordance with international norms on Human Rights, and that civil society has a suitable participation in the process (Italy).

<sup>2</sup> Source: SIIGESI, CDHDF, 2009-2012. Publication resulting from the accumulation of the complaint files according to the following annual distribution: 2009 - 786, 2010 - 938, 2011 – 1019 and 2012- 1011.

evidence on the existence of torture was found, the public prosecution authority desist of investigating the crime in which public officials pertaining to that same authority were involved. The victim of torture appealed said decision, hence the federal judicial authority resolved in favor of the victim and pointed out that, during the signed statement, the stipulations under the Istanbul Protocol were neglected, since experts of the same institution were the ones performing the assessment discrediting the act of torture, therefore, after being deemed as biased, an order to protect the victim and to reinstate the process was issued<sup>3</sup>. The carrying out of partial verdicts without complying with the techno-methodological conditions established by the Istanbul Protocol constitutes a systemic and ordinary practice in the Mexican law enforcement system, which favors impunity by placing the public prosecutors as judges and as parties when investigating and penalizing these conducts detrimental to the personal integrity.

§5. Moreover, legal harmonization is a pending subject in Mexico. Within local legislations, there is not a unified criterion that is suitable to international standards for its sanction; therefore, there are places in the country in which torture is considered a misdemeanor, and consequently the perpetrator has the possibility to be released under bond<sup>4</sup> thus increasing impunity surrounding this crime.

## **II.- Women, related to UPR recommendations - 13,16, 21, 23<sup>5</sup>**

§6. There is important progress in legislative matters; however, public policies, programs and training implemented become insufficient for the prevention, sanction and eradication of violence against women in Mexico City.

§7. Three main sectors of concern relating to violation of human rights for women have been identified, namely: the labor sector, the penitentiary sector and the law enforcement and administration of justice sector. It is important to highlight that institutional violence against women is, in general terms, one of the most concerning situations regarding women's rights in Mexico City, that they have resulted in the issuing of 21 Recommendations in the period from 1993 to 2011, from which 7 were made from 2009 on.

§8. Institutional gender violence persist, and from the CDHDF sexual harassment patterns in the work place to the detriment of women with low hierarchy have been detected, made by men with upper-level positions. Generally, these type of conducts remain unpunished even when competent authorities know of them, since they are neither investigated nor sanctioned by the correspondent people<sup>6</sup>, which reflects the persistence of socio-cultural patterns which place women in an inferior position (with regards to themselves and to what happens to them), in addition to the naturalization or minimization of violence against them.

§9. In the penitentiary scope, the investigation carried out by the CDHDF to credit the existence of imprisoned women human trafficking network. This network was formed by: security and custody personnel, personnel of criminal court and inmates of prison. It was evidenced that the network was using, wrongly, the legal mechanisms to request that some female inmates carried out proceedings in criminal courts, in order to

<sup>3</sup> See Recommendation 02/2013, CDHDF, available in: [http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2013/reco\\_0213.pdf](http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2013/reco_0213.pdf)

<sup>4</sup> In relation to Recommendation 26.

<sup>5</sup> UPR Recommendation First Cycle: A – 13 to carry out an exam of the legislation at state level which is discriminatory towards women, in a determined period; to commit to abrogate this legislation without further due, paying priority attention to laws on family which give rise to real or factual discrimination against women and girls and laws which prevent access of women to justice, particularly with regards to denounces of family violence and their prosecution; and, at federal level, to provide orientations to all States on the adoption of practical measures to guarantee the application of those legislative changes at local level (New Zealand); A – 16. Continue the efforts to solve and to eradicate cases of violence against women (Indonesia, Sweden), domestic violence (Algeria) and child abuse; A – 21. Face domestic violence cases with a multiple approach that includes effective legal measures and social awareness program (Bangladesh); A – 23. Take all necessary structural measures to systemically combat violence and violation of fundamental rights suffered by women and defenders of Human Rights (Belgium).

<sup>6</sup> See, Recommendation 09/2011, CDHDF, available in: [http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2011/reco\\_0911.pdf](http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2011/reco_0911.pdf)

facilitate clandestine encounters between male and female inmates in exchange of a payment; the foregoing, taking advantage of the situation of economic vulnerability in which female inmates were in order to exploit them<sup>7</sup>.

§10. In the instances of law enforcement and administration of justice actions and omissions continue to occur in the cases of violence against women, which translates in the absence of due diligence, verbal violence, minimization of the denounced facts, refusal to start a preliminary investigation, absence of mechanisms which ensure an independent investigation which protects the safety of victims, among others, by placing women in many cases under a situation of re-victimization and rejection of access to justice<sup>8</sup>, which contributes to perpetuate and strengthen violence and subordination of women, since it sends a message of impunity where the fact of using violence against women will seldom have consequences.

§11. It also highlights communitarian violence against women who live in or move in Mexico City, since they face a series of risks related to their condition of “being women”, such as: phrases of sexual nature, being touched without their consent or being object of innuendos or proposals to engage in sexual intercourse. To a lesser extent, but not less concerning, they may be forced to engage in sexual intercourse. These types of sexual aggressions, which specifically affect women, caused them to feel more insecure than men in public spaces, which affects their everyday activities, forcing them to modify them, and their schedules and/or routes and even their clothes, since it feeds a sense of fear of being sexually assaulted, which consequently, affects their human rights.

### III. - Penitentiary situation, UPR recommendations - 27, 29, 42, 44, 51<sup>9</sup>

§12. The situation of prisons in Mexico, and mainly in Mexico City, constitutes one of the most critical issues in terms of human rights that must be addressed in a priority basis. Each year, the CDHDF receives the largest number of complaints due to violations of human rights of imprisoned individuals than of any other violation. For instance, between 2009 and 2012, over 8 thousand complaints<sup>10</sup> related to penitentiary population were obtained.

§13. In Mexico City, as well as in the rest of the country, preventive imprisonment is excessively used. The hardening of penalties, mainly in patrimonial crimes and the absence of a catalog of alternative sanctions, conditions that this measure is recurrently used and not in an extraordinary manner as it should be. It is estimated that in Mexico City over 40% of imprisoned people are under preventive imprisonment<sup>11</sup>.

<sup>7</sup> See, Recommendation 04/2010, Human Rights Commission of Mexico City, available in: [http://www.cd hdf.org.mx/images/M\\_images/pdf\\_button.png](http://www.cd hdf.org.mx/images/M_images/pdf_button.png)

<sup>8</sup> See, Recommendation 09/2011, CDHDF, available in: [http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2011/reco\\_0911.pdf](http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2011/reco_0911.pdf)

<sup>9</sup> UPR Recommendation First Cycle1: A – 27. To take all necessary measures to prevent and prohibit torture practices and mistreatments (Japan, Uzbekistan), particularly by safety forces in prisons, as pointed out by several special rapporteurs (France); A – 29. To improve living standards in prisons (France) and to keep taking all necessary measures to improve the situation in prisons and the training of penitentiary staff (Portugal); A – 42. To assign financial and human resources sufficient for the application of the new system of public safety and criminal justice, including the suitable diffusion of information among users and the training of judges and lawyers (Chile); to assign enough resources to the penitentiary and criminal justice systems with the objective of reducing the accumulated delay in the imposition of penalties (Ireland); A – 44. To thoroughly investigate abuses and violations of human rights committed by agents of public order in prisons and to look after the duly sanction to the perpetrators (Portugal); to investigate all denounces of violations of human rights, particularly those relating to individuals detained during police operations, and having the perpetrators duly sanctioned and judged (Uzbekistan); A – 51. To include aspects relating to human rights in all training programs and to apply these programs in all police agencies (Italy); to guarantee that members of armed forces, police agencies and penitentiary and judicial personnel receive suitable training in human rights (Switzerland).

<sup>10</sup> Source: SIIGESI, CDHDF, 2009-2012. Issue resulting from the accumulation of complaints file according to the following annual distribution: 2009 – 1,809, 2010 – 2,189, 2011 – 2,004 and 2012 – 2,039.

<sup>11</sup> See, CELS, Abusive use of preventive imprisonment in the Americas, report presented at the 146<sup>th</sup> sessions period of the Inter American Commission on Human Rights, Washington, DC, November 1, 2012, in [http://www.cels.org.ar/common/documentos/Informe\\_PP\\_2012\\_CIDH.pdf](http://www.cels.org.ar/common/documentos/Informe_PP_2012_CIDH.pdf)

§14. In relation to the previous UPR, penitentiary conditions in Mexico City have suffered a considerable deterioration; only in 2010 the 10 penitentiary centers in Mexico City housed a penitentiary population of 35,000 individuals, which accounts for an overpopulation of almost twice the penitentiary capacity, a figure which presents an upwards tendency.

§15. As a consequence of the overpopulation, most of the rights of imprisoned individuals are violated, mainly the right to health and to personal integrity. In this sense, the CDHDF has documented that, between 2008 and 2011, 400 individuals have perished in prisons in Mexico City due to violent causes or due to their health condition<sup>12</sup>. The situation of overcrowding generates that the cells become a space for the performance of all the activities of the inmates, among which, feeding, resting, hygiene, deposit of excrement and work place. In these spaces, water and electric power supply are usually improvised and insufficient. A recurrent complaint is the poor quality and insufficient amount of food, producing risks in the health of the population. This situation has created disturbances demanding, mainly, the improvement of food; however, local authorities have not accomplished significant results on the matter<sup>13</sup>.

§16. The right to health of imprisoned individuals is one of the most violated ones and causes severe grave deteriorations in the integrity and lives of the individuals. The medical staff and the materials are limited and insufficient for the attention of all illnesses, the specialized personnel does not go to prison isolation zones and the transfer to external hospitals are only performed when health conditions of the individuals are very severe. In spite of the insistence by the CDHDF on the elaboration of clear criteria and objectives for the transferring of inmates to external hospitals, said demand has been neglected by the penitentiary authority.

§17. Violations to physical and psychological integrity which have translated into violent actions, punches, altercations, extortions, intimidations or sexual violence against imprisoned individuals, as well as a high number of torture cases committed inside imprisonment centers by Guarding and Custody Personnel, are also concerning.

§18. Contrary to the UPR Recommendation, the efforts to fight acts of torture and violence inside Correctional Facilities in Mexico City have been insufficient. In 7 occasions, this public organism of human rights has recommended the local government over the disproportionate and irrational use of force, torture and even death of imprisoned individuals. In facts, participation of special safety and security groups which, in a discretionary manner and under the protection of the penitentiary authority, enter the premises employing disproportionate force since they use paint bullets, gas, punches with closed fists, short clubs, shields or kicks<sup>14</sup> is common. During their operations, they have forced inmates to get naked and to kneel, they infringe injuries with electric blasts<sup>15</sup> and employ dogs as a form of intimidation<sup>16</sup>. As a consequence of the foregoing, in some cases, as a result of the severity of the blows, the injuries produced or the negligence to provide medical attention, death of inmates has occurred<sup>17</sup>.

<sup>12</sup> CDHDF, Request of public hearing to the Inter – American Commission on Human Rights on violence and right to personal integrity in imprisonment facilities in Mexico City, internal document, January 18, 2012, p. 1. See also CDHDF, bulletin No. 28/2012, CDHDF requested two hearings to the Inter-American Commission on Human Rights to discuss about street populations and imprisonment centers, available in <<http://www.cd hdf.org.mx/index.php/boletines/2057-boletin-282012>>, web page consulted on March 4, 2012.

<sup>13</sup> See Recommendation 6/2011, CDHDF, available in: [http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2011/reco\\_0611.pdf](http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2011/reco_0611.pdf)

<sup>14</sup> See Recommendation 19/2009, Human Rights Commission of Mexico City, available in: <http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2009/R200919.pdf>; Recommendation 09/2010, Human Rights Commission of Mexico City, available in: [http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2010/reco\\_1010.pdf](http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2010/reco_1010.pdf)

<sup>15</sup> See Recommendation 6/2011, CDHDF, available in: [http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2011/reco\\_0611.pdf](http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2011/reco_0611.pdf)

<sup>16</sup> See, Recommendation 01/2012, CDHDF, available in: [http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2012/reco\\_0112.pdf](http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2012/reco_0112.pdf)

<sup>17</sup> See, Recommendation 17/2009, CDHDF, available in: [http://www.cd hdf.org.mx/images/M\\_images/pdf\\_button.png](http://www.cd hdf.org.mx/images/M_images/pdf_button.png)

§19. Finally, in breach of one of the Recommendations arising the UPR, it is important to point out that prisons in Mexico City have suffered a decrease in their budget. To the foregoing, it should be added that, currently the penitentiary expenditure equals 1.50% of the total budget of the City, which results in unworthy live conditions inside detention centers<sup>18</sup>. Furthermore, a pending topic is the approval of an Execution Act for criminal sanctions which guarantees objective criteria for the concession of anticipated freedoms, as well as the judicial control in the execution of imprisonment, since up to this point the penitentiary system has been characterized for its discretionary nature and the absence of guarantees of due process.

#### **IV.- Street populations, UPR-Mexico recommendations, Recommendations 11, 31<sup>19</sup>**

§20. Rights of girls and boys in the Street populations in Mexico City has remained unchanged or without significant improvements, largely due to the absence of comprehensive public policies as well the implementation of social programs, which continue to be characterized for emphasizing in its actions the tutelary discrimination, without addressing the issues in a deep and comprehensive manner. In the worst-case scenario, they obviate the status of abandonment, extreme poverty, violence, stigmatization, criminalization and discrimination to which girls and boys are exposed.

§21. Violations of human rights of street populations are related to: violations to the right to a life free of violence, right to equality, honor, dignity, health, judicial protection, suitable living standards, name, identity, and physical integrity. The most predominant acts of discrimination in Mexico City have become evident through the denial of health services, as well as through acts of “social cleanness”, consisting of harassment, arbitrary detentions, and attempts of forced withdrawals from public places where they have settled.

§22. Recommendations issued by the CDHDF have not been fully complied with. Detention and transferring of individuals to houses known as “annexes”, where they have been victims of human trafficking, punches, cold-watered showers, imposition of punishments should they refuse to work, in addition to the fact that the supply of food in bad conditions was evidenced, have been recorded in said recommendations. During the aforementioned incidents, members of the local police participated, who observed the detention without preventing it from happening and, in some cases, participated in the transferring of girls, boys and adults pertaining to street populations<sup>20</sup>. In another case, it was proven that youngsters, girls, and boys were smacked and moved away from the area where they stayed overnight by authorities themselves, saying that it was a sanitary issue and of attention to complaints from the neighborhood<sup>21</sup>.

#### **V.- Arbitrary detention, related to UPR Recommendations 38, 39, 40<sup>22</sup>**

§23. In the period between 2009 and 2012, the CDHDF received 1,851 complaints deemed as violation to the right to personal freedom and security due to arbitrary detentions<sup>23</sup>. Arbitrary detentions in Mexico City are inherently related to cases of illegal detention, torture, public exhibition of people and *arraigo*. In turn, the

<sup>18</sup> In 2012, the amount assigned to Correctional Centers in Mexico City was of \$1,713,714,149 MXN, in 2011 of \$1,720,586,169 MXN, in 2010 of \$1,718,423,311 MXN and, finally, in 2009 of \$1,424,630,234 MXN, information available in: <http://www.finanzas.df.gob.mx/egresos/>

<sup>19</sup> UPR Recommendation, first cycle: A – 31. Try to solve the issue of street kids by providing them state protection and professional education (Pakistan); A – 11. To adopt new means to fight discrimination against women and vulnerable groups, among others, kids, minorities and indigenous peoples, and to protect them and provide assistance (United Kingdom).

<sup>20</sup> See, Recommendation 13/2011, CDHDF, available in: [http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2011/reco\\_1311.pdf](http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2011/reco_1311.pdf)

<sup>21</sup> See, Recommendation 23/2009, CDHDF, available in: <http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2009/R200923.pdf>

<sup>22</sup> UPR Recommendations, first cycle: A - 38. Guarantee that the rights of the detained parties are respected (New Zealand).

A - 39. Assess the use of “arraigo” (brief detention) (Ireland); A – 40. To apply with dispatch the judicial reform so that denunciations of torture, arbitrary detention and enforce disappearance (Peru) are thoroughly investigated, in strict accordance with international standards in human rights, and that the civil society has a more suitable participation in the process (Italy).

<sup>23</sup> Source: SIIGESI, CDHDF, 2009-2012. Publication resulting from the accumulation of complaint files according to the following annual distribution: 2009 - 442, 2010 - 437, 2011-480 and 2012 - 492.

authority most pointed out for its irregular actions is the investigation police, the agents of the Attorney General's Office, as well as traffic and road safety police officers.

§24. In this context, the CDHDF has detected cases where individuals are detained without legal basis or consider them to be accompanied by another individual deemed as “probable culprit” of some crime<sup>24</sup>. The objective of the detention is to prosecute, without any support in legislation or flagrancy whatsoever, the individual for some crime committed in the nearby area<sup>25</sup>. Another common fact is that arbitrary detentions are carried out in police vehicles without license plates or logos. Usually, during these forms of detentions, agents use force in a disproportionate manner<sup>26</sup>.

§25. Arbitrary massive detentions have also been documented in detriment mainly of youngsters during the celebration of public sessions. In a case recommended by the CDHDF, it was credited how a group of youngsters was detained in a discretionary and random manner, when carrying out a police operation, for further dispatching to the local Public Prosecutor's Office. During their detention, the youngsters (both males and females) were subjected to interrogations, body searches, and medical examinations without their consent. Furthermore, the ministerial personnel omitted to inform them about their rights and reason for detention; likewise, it delayed without just cause to notify their family members on the individuals under detention. The development of the actions by the authorities was characterized by the stigmatization of the detained parties (both male and female) before the media, by spreading the version that they were under the effects of alcohol and drugs<sup>27</sup>.

§26. One form of arbitrary detention, in force and effect and fully institutionalized both at the federal and the local levels, is “*arraigo*”. According to the experience of the CDHDF, individuals under *arraigo* are detained without reasons justifying the action and without letting them know the charges ascribed to them, which nullifies the rights to hearing, defense, effective judicial tutelage, and presumption of innocence.

§27. The CDHDF has worryingly documented that “*arraigo*” has been applied in Mexico City in a disproportionate manner. In this sense, for example in 2008 the Mexico City Attorney General's Office (PGJDF) issued to the Mexico City Superior Court of Justice (TSJDF) 46 *arraigo* requests which involved 76 individuals, while in 2009 the *arraigo* requests grew to 142 involving 305 individuals detained under *arraigo*; moreover, in 2010 the *arraigo* requests were 235 and involved over 400 individuals who were subjected to *arraigo*. As it can be observed, *arraigo* as exceptional concept has been extending in the city, since, while for 2011 *arraigo* orders issued went down, a total of 152, a considerably significant number, for an exceptional concept.

§28. In the opinion of the CDHDF, there is a reiterated and systematic pattern of grave violations and intromissions to personal freedom since the absence of qualification of the legality of the detention by the judicial authority is evidenced; the absence of a test standard so that the Attorney General's Office requests the *arraigo*; the possibility of having the legal situation of the individual discretionally modified; the frequent absence of the defense attorney when individuals are subjected to *arraigo* in the hearing before the Judge; the insufficient measures adopted by the Judge to guarantee the rights of individuals under *arraigo*; the lack of suitable and effective means to contest an *arraigo* resolution; the absence of defense mechanisms to question the evidence presented by the Attorney General's Office at the *arraigo* hearing; the issuing by the judicial

<sup>24</sup> See, Recommendation 06/2010, CDHDF available in: <http://directorio.cd hdf.org.mx/libros/recomendaciones/2010/09/Reco0610.pdf>

<sup>25</sup> See, Recommendation 09/2010, CDHDF, available in: [http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2010/reco\\_0910.pdf](http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2010/reco_0910.pdf)

<sup>26</sup> See, Recommendation 08/2011, CDHDF, available in: [http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2010/reco\\_0910.pdf](http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2010/reco_0910.pdf)

<sup>27</sup> See, Recommendation 20/2012, CDHDF, available in: [http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2012/reco\\_2012.pdf](http://www.cd hdf.org.mx/images/pdfs/recomendaciones/2012/reco_2012.pdf)



authority of collective *arraigos* without performing the individualization of the order and, unsuitable conditions at the *Arraigo Center*<sup>28</sup>.

§29. Finally, and in contrast with the UPR Recommendation, in Mexico City like in many other states of the Republic, the oral and adversary criminal system that would allow an opportune qualification over the form of detention have not been implemented.

## **VI.- Due Process**

§30. During the last four years, the CDHDF has received 2,846 complaints<sup>29</sup> for violations to the due process and judicial rights. The most recurrent violations are associated to the denial to provide information on the legal situation of the individuals undergoing a process, as well as hampering the assistance or advisory to the accused individuals by the particular defender or defender by law.

§31. For the CDHDF it is grave that in Mexico City, like other states in the country, there is the institutionalized practice of publicly exhibiting detained individuals, since it entails a multiplicity of violations to human rights, such as: right to honor, reputation, presumption of innocence, intimacy, and private life. The exhibition of detained individuals as potential responsible parties before the press is a practice that the ministerial authority carries out without legal support, with which it subjects detained individuals to the public opinion, since it is not recognized in the Constitution, criminal codes or local legislations, rather they are recognized in internal administrative provisions which do not constitute heteronomous norms of public order.

§32. The exhibition of individuals before the media generates social stigmatization, thus irremediably affecting their lives and professional relations. Individuals under trial who have been exhibited before the media face the formulation of “social convictions”, in detriment of their presumption of innocence and their right to a due process. The usual practice during the presentation of probable culprit individuals before the media is that they have not yet made their statement before the Attorney and, therefore, they have had no access to express their version of alleged facts, to appoint their defense as well as to offer evidence in their favor<sup>30</sup>. From April 2012 to February 2013, the CDHDF has received 56 complaints on the exhibition of detained individuals before the media, from which it is important to point out that a new practice followed by the PGJDF is to present them when they are under “*arraigo*”, which turns out to be, in the opinion of the CDHDF, even more delicate since given the judicial nature of “*arraigo*”, it is applied just when the investigator does not have sufficient elements to accuse the individuals and in spite of that fact it shows them in front of the public opinion as alleged guilty parties of criminal activities.

## **VII.- Impunity related to UPR Recommendations 45, 46<sup>31</sup>**

§33. The obstacle that prevents the eradication of violations to human rights, - particularly grave violations -, is the impunity that accompanies them. In this sense, the *Programa de Lucha Contra la Impunidad* (Program to

<sup>28</sup> See, Recommendation 02/2011, CDHDF, available in: [http://directorio.cd hdf.org.mx/libros/recomendaciones/2011/Reco02\\_2011.pdf](http://directorio.cd hdf.org.mx/libros/recomendaciones/2011/Reco02_2011.pdf)

<sup>29</sup> Source: SIIGESI, CDHDF, 2009-2012. Publication resulting from the accumulation of complaint files according to the following annual distribution: 2009 - 687, 2010 - 739, 2011 - 673 and 2012 - 747.

<sup>30</sup> See, Recommendation 03/2012, CDHDF, available in: [http://directorio.cd hdf.org.mx/pdf/recos/12/reco\\_0312.pdf](http://directorio.cd hdf.org.mx/pdf/recos/12/reco_0312.pdf)

<sup>31</sup> UPR Recommendations, first cycle: A - 45. Make of the fight against impunity one of the priorities of the government (Belgium) and to make an effort to fight it at a national level (United Kingdom).

A - 46. To prevent impunity of violations on human rights and investigate, within the national territory, the cases in which police and judicial authorities are involved (Cuba); to seriously take care of torture denounces and of systematic and excessive use of force by public order organisms, in order to put an end to the culture of impunity (Bangladesh); to investigate torture denounces and other abuses on human rights committed by police, military and security personnel, and to finish the climate of impunity (Azerbaijan); to intensify efforts to put an end to torture and mistreatment, to eradicate impunity on such facts and to make sure that alleged liable parties are subjected to justice (Denmark).

Fight Against Impunity), of the CDHDF, in its counting of sanctions imposed to public officers responsible of violations to human rights and associated crimes, has detected that in 11 recommended cases, only 5 public officers have been arrested, and two of them have been sanctioned with prison, in 2 occasions the damage has been repaired, 9 public officers have been suspended from their duties, 3 have been removed, 4 have received public reprimand, 2 have received a fine, and 7 have been terminated as elements of security and custody. Out of these, 26 sanctions were derived from recommendatory instruments and 11 from complaint files. The foregoing entails that, in 391 procedures subjected to follow up only 37 sanctions were applied, which means that in 90.53% of the cases there has not been sanctions, this is evidence of a large margin of impunity.

§34. As an element of measurement for the impunity in cases recommended by the CDHDF, out of the 75 Recommendations issued by this public organism, in the period from 2009 to February 2013, it has been detected that:

- From 14 recommendations issued for *torture*, only 5 have been fully accepted, 7 partially accepted, 1 manifestly unaccepted and 12 are under follow up;
- From 6 recommendations issued for issues of *violence against women*, 2 have been fully accepted, partially accepted, and 6 are under follow up;
- The 3 recommendations issued for violations against *street populations*, only 1 has been fully accepted, 2 partially accepted, all 3 are under follow up;
- From 14 recommendations issued to the *penitentiary system*, only 7 have been accepted, the remaining 7 have been partially accepted, all 14 are still under follow up;
- From 10 recommendations issued by actions of *arbitrary detention*, only 1 has been accepted, 7 were partially accepted and 1 was manifestly rejected, 6 are under follow up;
- From 13 recommendations issued for *violations to the due process*, only 2 have been fully accepted, 7 are partially accepted, 3 have manifestly been rejected and 8 are under follow up.

#### VIII.- The situation of journalists, as well as of male and female defenders of human rights, related to UPR Recommendation 53, 56, 57, 58, 49, 60<sup>32</sup>

§35. In 2010, the Prosecutor's Office for the Investigation of Crimes against the Freedom of Expression (FEADLE) was created; however, in the experience of the CDHDF the role of this Office has been limited to investigate only Federal crimes; thus, when a journalist is under threats, one of the most recurrent aggressions, the Office channels the case to local prosecutor's offices, without making use of its authority to drawn into appeal, which does not guarantees an appropriate diligence and an thorough investigation of the facts.

<sup>32</sup> UPR Recommendation, first cycle: A - 53. To invite non-governmental organizations dedicated to the promotion of freedom of press to participate in a constructive dialogue on the means through which Mexico will be able to put a halt on violence against journalists and to guarantee freedom of press (Norway); A - 56. To adopt more effective means to fight violence against journalists and communication media personnel (United Kingdom); to provide greater guarantees to these individuals (Peru), and to watch over their safety (Bangladesh, Denmark, Peru) during practice of their professional duties (Bangladesh), particularly of those who investigate and denounce cases related to drug trafficking and corruption (Peru); A - 57. To create the appropriate legal framework so that the Special Prosecutor's Office for crimes against journalists has the necessary competence to investigate and to indict the perpetrators with a greater degree of independence (Netherlands); A - 58. To investigate cases of aggressions and acts of violence and threats against journalists and human rights defenders (Germany, Azerbaijan), in order to bring perpetrators before justice (Germany), and to intensify efforts to guarantee that the investigation of aggressions against defenders of freedom of expressions is performed at Federal level (Denmark); A - 59. To watch over the effective investigation and indictment of crimes and violations against journalists, lawyers and human rights defenders, that liable parties are penalized and that a prompt response is provided to denounces of threat, harassment and intimidation of journalists, lawyers, and human rights defenders, and appropriate measures are taken for their safety (Norway); A - 60. To improve the effectiveness of "cautionary measures" in order to protect human rights defenders (Germany), particularly by adopting efficient and comprehensive strategies for prevention at central and local level, in order to prevent aggressions and to protect the lives and physical integrity of journalists and human rights defenders, and make sure that the correspondent programs are supported on a solid political commitment and received the appropriate resources (Norway).

§36. In 2010, the Mechanism or the Protection of Journalists and Defenders was established at Federal level; however, it was at the end of 2012 that said mechanism started to operate with some difficulties in its mandate. For instance, the measures in favor of journalists and defenders stick to safety and security matters, when, on daily basis, humanitarian measures are required so that the beneficiaries are able to relocate to other localities in order to get their life back after suffering an aggression.

§37. In Mexico City, the *Agencia Especializada para la Atención de Delitos Cometidos en Agravio de las y los Periodistas* (Specialized Agency to Attend to Crimes Committed against Journalists), as well as the *Fiscalía Central de Investigación para la Atención de Asuntos Especiales y Electorales* (Central Investigation Prosecutor's Office to Attend to Special and Electoral Matters) which is entitled to investigate crimes committed against defenders for exercising their duties, operate in Mexico City. It is important to point out that, in any single case, liability against one individual for assaulting those who practice journalism or are defenders of rights has been determined. Likewise, it is necessary to train operators of prosecutor's offices, since they have come to require documentation to prove that the individual is a defender – statute of organization for instance -, instead of analyzing the characteristics of the work they perform and the context in which aggressions take place.

§38. In 2012, the Special Rapporteurship for Freedom of Expression of the CDHDF recorded 184 aggressions against journalist at national level. Among the most recurrent ones, 69 physical assaults, 43 cases of harassment, 24 threats and 20 forced displacement. Due to their severity, 6 homicides and one disappearance stand out. From the total of aggressions, 131 are against males, 21 against females, as well as 18 aggressions against media. The states with most aggressions recorded by the CDHDF were Mexico City with 40 cases, followed by Veracruz with 23 and Oaxaca with 15.

§39. As for the aggressions against human rights defenders, in 2010 47 cases were recorded, in 2011 66 were recorded, and in 2012 315 aggressions were recorded. The most frequent torts from 2010 to 2012 were threats with 71 cases and homicide with 66. Only in 2012, 61 cases of harassment to defenders were recorded. The states with the most aggressions are Oaxaca, Chihuahua and Mexico City.

§40. In 2012, individuals most assaulted are those in social protests with 77 aggressions, followed by aggressions to environmental defenders with 64, 56 against defenders of political rights and 40 against defenders of indigenous peoples. To a lesser extent, aggressions against defenders of the LGBT community, women and migrants, were recorded, in relation to previous years where the latter stood out.

## **IX.- Petitions**

§41. Considering the foregoing, the CDHDF requests member States, parties to the Universal Periodic Review, that in relation to the Recommendations issued during the previous year and to the current situation of human rights in Mexico, the Mexican State is questioned on and demanded to:

1. Implement monitoring records on police works both at the local and federal level which contains the phases and controls of the detention chain and the record of individuals, and which have the appropriate technology to document police action from the moment of the detention, in order to protect the integrity of the detained individuals.

2. Establish independent and specialized institutions which are not a part of the structures of both federal and local justice attorney's offices, in order to guarantee the objective and unbiased application of medical, psychological, and legal reports for the determination of torture practices.
3. Implement actions and measures that guarantee unbiased and concluding investigations, as well as to adjust legal description of crimes to solve torture cases at jurisdictional level, solidly fighting impunity in cases of torture and severe violations to human rights.
4. Fight institutionalized violence against women through the creation of protocols to prevent sexual harassment in the work place in public departments, either local or federal.
5. Implement, at the earliest convenience, a comprehensive criminal and penitentiary policy, based on the guaranteeing of rights and in the use of custodial sentence as last ratio, which effectively results in the critical situation in which most prisons are, due mainly to overpopulation and overcrowding which, likewise, unchain a series of violations to human rights.
6. Implement public policies aimed at the eradication of violence in prisons and to thoroughly investigate liability over the use of reaction groups that have exerted disproportionate force and torture actions against the penitentiary population, comprehensively repairing the damage to victims.
7. Implement public policies base don the guaranteeing of human rights and access to basic needs and services of street populations and, likewise, to suppress characterized programs and actions which emphasize tutelary discrimination and allow acts of "social cleaning" against these individuals.
8. Eradicate massive arbitrary detentions of individuals and guarantee individualization of each of the detentions, on the appropriate legal basis and with the adequate motivation. As well as to avoid the extended absence of communication of individuals, placing special focus on girls, boys, and youngsters.
9. Eliminate *arraigo*, both at federal and local levels, since it represents a legal model that violates human rights.
10. Promote and guarantee that normative and institutional reforms are performed at the earliest convenience in order to implement the adversarial system throughout the country, based on the validity of rights to due the due process and legal guarantees. Likewise, to immediately suppress all institutional practices related to the presentation of detained individuals before the media.
11. Accept and comply with the recommendations issued by public organisms for the protection of human rights in the country under all their terms.
12. Implement public policies and promote legislative initiative bills aimed at guaranteeing due diligence in the investigation and penalization of liable parties in crimes against journalists and human rights defenders, and ensure effective protection mechanisms so that they can practice their work without risks to their integrity and life.

**MEXICO CITY, MARCH 4<sup>TH</sup>, 2013**



**LUIS GONZÁLEZ PLACENCIA  
PRESIDENT**