



BETWEEN THE PRI AND MORENA: SETBACKS, IMPUNITY AND SIMULATION

Human Rights in Oaxaca

Report 2018-2023





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Between the PRI and Morena: Setbacks, impunity and simulation Human rights in Oaxaca Report 2018-2023

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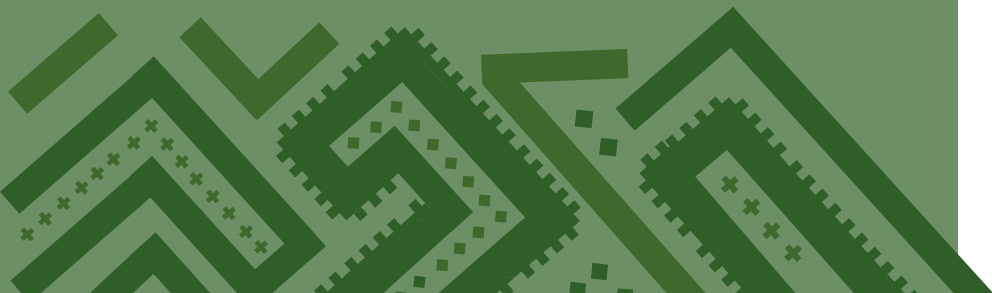
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I. INTRODUCTION

The Universal Periodic Review (UPR) is a mechanism of the United Nations (UN) Human Rights Council established in April 2008 to periodically examine the priorities for progress towards the full realization of human rights in each of the 193 member states.

In the case of Mexico, the 2024 evaluation is the fourth, following those carried out in 2008, 2013 and 2018. The number of recommendations has increased in each period, and a total of 521 recommendations have been issued on various priority issues related to human rights, such as legislative harmonization and the signing of international treaties, access to justice, violence against women, the situation of human rights defenders and journalists, torture, enforced disappearances, migration, children and indigenous peoples.

Despite the recommendations presented, there are still structural problems such as impunity and lack of political will that have hindered their

implementation. In addition, the mechanism for evaluating compliance with the recommendations is imprecise, and the status of implementation of public policies that address these recommendations varies among the states and different contexts in the country.



UPR is a UN mechanism that periodically examines human rights situation in member states.



Mexico continues to have one of the highest levels of inequality and poverty in the Organization for Economic Cooperation and Development (OECD).¹ In this country, 10% of the population hold 79% of the wealth.² Inequality affects women and youth differently.³

¹Organization for Economic Cooperation and Development (OECD). Economic Panorama. Mexico. Consulted on June 30, 2023. Available at: <https://www.oecd.org/economy/panorama-economico-mexico/>

²Chancel L. & others (2022). World Inequality Report. p.39 Available at: https://wir2022.wid.world/www-site/uploads/2023/03/D_FINAL_WIR_RIM_RAPPORT_2303.pdf

³Organization for Economic Cooperation and Development (OECD). Economic Panorama. Mexico. Consulted on June 30, 2023. Available at: <https://www.oecd.org/economy/panorama-economico-mexico/>

The state of Oaxaca is one of the three states with the highest rates of marginalization. The inequality gaps are alarming with 61.7% of the population living in poverty and 20.6% in extreme poverty.⁴

Oaxaca has the highest percentage of people who speak an indigenous language⁵, and indigenous territories also concentrate natural wealth and face the imposition of numerous extractive projects such as mining, water, agro-industrial and megaprojects.⁶

Because of these particularities, Oaxacan non-governmental organizations are presenting for the fourth time a report on the evolution of the human rights situation and priorities in the state.

We will address the following topics: public policies on human rights, security and militarization, access to justice, the right to land,

territory and indigenous peoples, the situation of human rights defenders and freedom of expression, femicide violence, the rights of children and adolescents, and the right to a healthy environment.

This report covers the period from 2018 to June 2023; it covers at the federal level the six-year term of Enrique Peña Nieto of the Institutional Revolutionary Party PRI (March to November 2018) and the six-year term of Andrés Manuel López Obrador of the National Regeneration Movement MORENA (December 2018 to the date of the report) and in Oaxaca the six-year term of Alejandro Murat Hinojosa of the PRI (March 2018 to November 2022) and the six-year term of Salomón Jara Cruz of MORENA (December 2022 to the date of the report).

⁴Consejo Nacional de Evaluación de la Política de Desarrollo Social CONEVAL. (2022) Índices de marginación 2020. p.9 Consulted on June 15, 2023. Available at: https://www.coneval.org.mx/coordinacion/entidades/Documents/Informes_pobreza_evaluacion_2022/Oaxaca.pdf

⁵Instituto Nacional de Estadística y Geografía INEGI (2020) Información por entidad. Oaxaca. Población. Diversidad. Consulted on June 15, 2023. Available at: <https://www.cuentame.inegi.org.mx/monografias/informacion/oax/poblacion/diversidad.aspx?tema=me8e=20>

⁶University Program for the Study of Cultural Diversity and Interculturality - National Autonomous University of Mexico. Atlas Mezinal I. Consulted on June 15, 2023. Available at: <https://www.puicmezinal.unam.mx/index.php>

II. PUBLIC POLICY ON HUMAN RIGHTS

We found continuity between the PRI and Morenist administrations covered in this report, characterized by setbacks, simulations, omissions, negligence, corruption, lack of autonomy, and disinterest in human rights.

In both administrations, the construction of the State Development Plan (PED) was not inclusive and resulted in inadequate plans. The current PED was approved in 2023 without the real participation of civil society and non-governmental organizations. It renders human rights invisible. It subsumes them in the axis of governance with control strategies of territory and social conflict.⁷

« Election processes for the heads of autonomous bodies are subjects to official power. »

With regards to the human rights budget, there is a profound discrepancy between the discourse and the actual allocation. For example, the transversal policy for gender equality represented between 10 and 23% of the expenditure budget from 2018 to 2023. However, it did not have an impact on concrete actions in the Annual Operating Program and it is not possible to analyze how it was implemented.⁸

On the other hand, agencies such as the Human Rights Ombudsman of the People of Oaxaca (DDHPO) and the Coordination for the Attention of Human Rights (CADH) have extremely low budgets, which in 2023 represents barely 0.05% of the expenditure budget.

The election processes for the heads of the main autonomous bodies for human rights and justice policy are subject to official power. In the case of the Attorney General's Office of the State of Oaxaca (FGEO), the last two nominations in 2021 and 2023 were imposed by the executive branch, current prosecutors resigned to a trans-sexennial

⁷Government of the State of Oaxaca. (May 2023). Oaxaca State Development Plan 2022-2028. Available at: <http://www.ped.oaxaca.gob.mx/ped/Archivos/inicio/PLAN%20DE%20DESARROLLO%20ESTATAL%202022-2028-web.pdf>

⁸Constitutional Government of the State of Oaxaca. Legislative Branch. Decrees 785, 15, 884, 1810, 13 and 762 that issue the expenditure budget of the State of Oaxaca for the fiscal years 2018, 2019, 2020, 2021, 2022 and 2023

Available at: <https://www.congreso.oaxaca.gob.mx/>

mandate⁹ and new pro-government prosecutors were imposed.

Both prosecutors were rejected by civil society¹⁰ for their lack of experience and poor performance in their previous positions as ombudsmen. For the third time, the former ombudsman became prosecutor.¹¹ Another example is the election of the head of the decentralized body, the State Commission for the Attention of Victims of Oaxaca (CEAV), in 2023, after five years without a head and a search of only three days, a candidate was imposed, despite the rejection of the victims.¹²

In the legislative field, several initiatives have been left on the back burner and others, despite their approval, remain as dead letters, simulated and deficient, as in the case of the "3 de 3" reform¹³, which restricts access to public office to persons

convicted of domestic violence, sexual crimes and delinquent alimony debtors. Therefore, it is particularly serious that the following individuals are listed as state government officials: Donato Vargas Jiménez, coordinator of the Peace Delegates, denounced for domestic violence and accused of participating in digital pornographic groups to the detriment of indigenous women.¹⁴

Another example is Yolanda Adelaida Santos Montaña, Undersecretary for the Prevention of Gender Violence in the Secretary of Women in Oaxaca, sanctioned for gender-based political violence.¹⁵

«
For the third time, the former
ombudsman became prosecutor.
»

⁹Based on Article 8 of the Organic Law of the Attorney General's Office of the State of Oaxaca, the Attorney General will serve for seven years. This provision seeks to strengthen the autonomy of the prosecutor who will serve for two administrations. More information in Ley Orgánica de la Fiscalía General del Estado de Oaxaca (2015). Available at: [https://www.congreso-oaxaca.gob.mx/docs65.congreso-oaxaca.gob.mx/legislacion_estatal/Ley_Organica_de_la_Fiscalia_General_del_Estado_de_Oaxaca_\(Ref_dto_1074_aprob_LXV_Legis_22_mzo_2023_PO_13_26a_secc_1_abr_2023\).pdf](https://www.congreso-oaxaca.gob.mx/docs65.congreso-oaxaca.gob.mx/legislacion_estatal/Ley_Organica_de_la_Fiscalia_General_del_Estado_de_Oaxaca_(Ref_dto_1074_aprob_LXV_Legis_22_mzo_2023_PO_13_26a_secc_1_abr_2023).pdf).

¹⁰Jiménez C. (2023). Feministas de Oaxaca exigen designación de fiscal con experiencia; rechazan a Rodríguez Alamilla. El Universal. Consulted on June 1, 2023. Available at: <https://oaxaca.eluniversal.com.mx/sociedad/feministas-de-oaxaca-exigen-designacion-de-fiscal-con-experiencia-rechazan-rodriguez>.

Redacción (2021). Pide activista que selección de Fiscal de Oaxaca sea sin cuotas, cuotes o corrupción. Estado Actual. El Poder de la Verdad. Consulted on June 1, 2023. Available at: <https://estadoactual.com/pide-activista-que-seleccion-de-fiscal-de-oaxaca-sea-sin-cuotas-cuotes-o-corrupcion/>.

¹¹Rodríguez, O. (2021) Designan a Arturo Peimbert como fiscal de Oaxaca. Milenio. Consulted on June 1, 2023. Available at: <https://www.milenio.com/estados/designan-a-arturo-peimbert-como-fiscal-de-oaxaca>.

¹²Guerrero J. (2023) Entre gritos de fraude, Morena y aliados, imponen decisión de Jara y eligen a Eduardo Vila como titular de la Comisión Ejecutiva de Atención a Víctimas. Página 3. Consulted on June 15, 2023. Available at: [https://pagina3.mx/2023/03/entre-gritos-de-fraude-morena-y-aliados-imponen-decision-de-jara-y-eligen-a-eduardo-vila-como-titular-de-la-comision-ejecutiva-de-atencion-a-victimas/#:~:text=OAXACA%20\(%23p%C3%A1gina3.mx\),en%20el%20Estado%20de%20de%20Oaxaca](https://pagina3.mx/2023/03/entre-gritos-de-fraude-morena-y-aliados-imponen-decision-de-jara-y-eligen-a-eduardo-vila-como-titular-de-la-comision-ejecutiva-de-atencion-a-victimas/#:~:text=OAXACA%20(%23p%C3%A1gina3.mx),en%20el%20Estado%20de%20de%20Oaxaca).

¹³Constitutional Government of the State of Oaxaca. Legislative Branch (2023). Available at: https://www.congreso-oaxaca.gob.mx/docs65.congreso-oaxaca.gob.mx/decretos/DLXV_0875.pdf.

¹⁴Consortio Oaxaca (2023) Exigimos la destitución del funcionario del Gobierno del Estado de Oaxaca: Donato Vargas Jiménez. Available at: <https://consorciooaxaca.org/2023/04/exigimos-la-destitucion-del-funcionario-del-gobierno-del-estado-de-oaxaca-donato-vargas-jimenez/>.

¹⁵Yolanda Adelaida Santos Montaña is number 5 in the Registry of Persons Sanctioned for Political Violence against Women on Grounds of Gender of the State Institute of Elections and Citizen Participation of Oaxaca. Consulted on May 30, 2023. Available at: https://www.ieepco.org.mx/material-de-interes/cat-info/violencia_vpccmrj.

III. SECURITY AND MILITARIZATION

In 2019, Mexico began a process of constitutional reform that deepened the militarization of public security. In January 2020, the Federal Police disappeared and the National Guard was strengthened¹⁶, giving it public security tasks, first under a civilian command, then there was an attempt to transfer this command to the Ministry of National Defense (SEDENA). This attempt was struck down in April 2023 by the Supreme Court of Justice of the Nation, who declared the reform unconstitutional in this sense.¹⁷ This process is particularly worrying because of the army's historical role as a violator of human rights and the impunity that exists in this regard.¹⁸

In the last four years, the number of complaints against the armed forces at the National Human Rights Commission (CNDH) has increased,

especially against the National Guard, which in 2021 and 2022 was the agency with the sixth highest number of complaints in the country.¹⁹ In Oaxaca, the CNDH registered 19 complaints against this authority in 2020, 25 in 2021, and 33 in 2022. It is the state with the fourth highest number of complaints at the national level. Some examples of the increase in human rights violations committed by the armed forces occurred in 2023 in the region of the Isthmus of Tehuantepec, where harassment, attacks and criminalization against communities defending the territory in resistance to the imposition of the Interoceanic/Trans-Isthmus Corridor have increased. Another example is the case of the "illegal escorting" of migrants, which once again points to the armed forces.²⁰

¹⁶ Official Journal of the Federation (2019). Agreement issuing the Guidelines for the transfer of human, material and financial resources assigned to the Federal Police. Published in the Official Journal of the Federation on 30.09. 2019. Available at: https://dof.gob.mx/nota_detalle.php?codigo=5573845&fecha=30/09/2019#gsc.tab=0

Official Journal of the Federation (2019). Decree enacting the Law of the National Guard. Published in the Official Journal of the Federation on 27.05.19. Available at: https://dof.gob.mx/nota_detalle.php?codigo=5561285&fecha=27/05/2019#gsc.tab=0

¹⁷ Supreme Court of Justice of the Nation (2023). Resolución de la Acción de inconstitucionalidad 137/2022. Available at: <https://www2.scjn.gob.mx/juridica/engroses/cerrados/Publico/Proyecto/AI137-2022PL.pdf>

¹⁸ Human Rights Watch (2009) Impunidad Uniformada. Uso indebido de la justicia militar en México para investigar abusos cometidos durante operativos contra el narcotráfico y de seguridad pública. Available at: <https://www.hrw.org/sites/default/files/reports/mexico0409spwebwcover.pdf>

¹⁹ National Human Rights Commission. Sistema nacional de alerta de violación a los Derechos Humanos. Indicadores por autoridad. Consulted on May 20, 2023. Available at: <https://appweb2.cndh.org.mx/sna/inicio.asp>

²⁰ Viña, D. (2023) México detiene a cuatro soldados de la Marina por presunto tráfico de migrantes rusos en Oaxaca. El País. Consulted on May 20, 2023. Available at: <https://elpais.com/mexico/2023-03-29/mexico-detiene-a-cuatro-soldados-de-la-marina-por-presunto-trafico-de-migrantes-rusos-en-oaxaca.html>

Militarization hasn't meant a decrease in violence. On the contrary, data from the Attorney General's Office of the State of Oaxaca show that in January of 2023, 74 cases were opened for the intentional homicide of men, compared to 50 (2022) and 59 (2021).²¹ This, coupled with the increased presence of criminal groups linked to cartels, increases insecurity and extreme violence.²²

Therefore, "peace" is only a government narrative and part of the simulation. In Oaxaca, façade programs have been created²³ to influence the social imaginary and hide the militaristic and repressive policies.



In the first half of 2023, there was a sharp increase in the criminalization of social protest with at least six documented acts of repression in the center of the state and in the region of the Isthmus of Tehuantepec. Public force was used for violent evictions rather than dialogue, and the participation of armed forces was documented in two of the incidents.²⁴

In addition, the military presence in indigenous communities is an open provocation to the principle of self-determination and autonomy of these communities, where the Topiles²⁵ provide security. Even more serious is the State's attempt to appropriate this community figure in order to legitimize repressive policies, such as the "Topiles for Peace" program.²⁶

²¹Attorney General's Office of the State of Oaxaca. Estadísticas anuales en incidencia delictiva del estado de Oaxaca. Consulted on May 20, 2023. Available at: <https://fge.oaxaca.gob.mx/index.php/estadisticas>

²²Matías, P. (2023) Salomón Jara presume "saldo blanco" en Semana Santa, pero mataron a 12 personas. Proceso. Consulted on June 1, 2023. Available at: <https://www.proceso.com.mx/nacional/estados/2023/4/11/salomon-jara-presume-saldo-blanco-en-semana-santa-pero-mataron-12-personas-305156.html>

²³For instance the Coordination of Social Peace Delegates at the Secretary of Government, the State Program for Peace with Justice and Well-Being for the People of Oaxaca and the Network of peace building women Mucpaz.

²⁴It has been documented: the arbitrary detention of the HR defender David Hernández Salazar in January 2023, the violent eviction of Triqui women in February 2023, the violent eviction of residents of Santiago Xicaui Ixtlán in March 2023, the violent repression against protests in the Oaxaca City Zócalo by normalista students in March and May 2023, the violent repression against protests by young women in the framework of International Women's Day in March 2023 and various acts of aggressions, arbitrary detentions and repression against the Mixe encampment Tierra y Libertad in the Isthmus of Tehuantepec in March and April 2023.

²⁵The "topil" is the first position to be fulfilled in the community system and many times this is seen as "police" although they do not have police training or the use of weapons, they are not uniformed. More information is available at: <https://www.nvnoticias.com/oaxaca/general/topiles-el-deber-de-servir-en-las-comunidades-de-oaxaca/22397>

²⁶Matías, P. (2023). Topiles por la Paz, para impedir protestas en la Guelaguetza, denuncian organizaciones oaxaqueñas. Proceso. Consulted on July 5, 2023. Available at: <https://www.proceso.com.mx/nacional/estados/2023/7/4/topiles-por-la-paz-para-impedir-protestas-en-la-guelaguetza-denuncian-organizaciones-oaxaqueñas-310040.html>

IV. LAND, TERRITORY AND INDIGENOUS PEOPLES

The Mexican state has an outstanding debt to indigenous peoples and communities. In this regard, the UN Special Rapporteur on the Rights of Indigenous Peoples has noted since 2017 that the current legal, political and institutional framework does not allow for the effective recognition of the rights to land, territory, autonomy, self-determination, political participation, access to justice, cessation of violence and impunity.²⁷ As we pointed out in our previous report²⁸, the Mexican state has not reformed these institutional frameworks. There are several legal initiatives developed by indigenous peoples and communities. None of which have been adopted by the state to reform laws that affect them directly.²⁹

The existing legal framework exacerbates the imposition of energy, extractive and infrastructure projects and the resulting violation of fundamental rights.

In the case of extractive projects, in 2020, 294 mining concessions were granted in the state of Oaxaca: 45 mining projects, 36 in the exploration stage, two in development, four in suspension and three in commercial exploitation.³⁰



The legal framework exacerbates the imposition of megaprojects.



Regarding energy projects, the National Inventory of Clean Energy (INEL) identifies 67 sites with hydroelectric potential, two projects in operation, one suspended, three with permits from the Energy Regulatory Commission (CRE) and five

²⁷Closing mission statement, United Nations Special Rapporteur on the Rights of Indigenous Peoples. Victoria Tauli Corpuz, (2018). Available at: https://hchr.org.mx/wp/wp-content/themes/hchr/images/doc_pub/PPII_EndofMissionStatementSPA_FINAL.pdf

²⁸Under Attack, human rights in Oaxaca 2013-2018. Citizen report. Oaxaca-Mexico, March 2018. Available at: <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5679&file=SpanishTranslation>

²⁹ Mining Law of 2023. June 26, 1992. Last reform DOF 08-05-2023; General Law of Ecological Balance and Environmental Protection of 2023. January 28, 1988. Last reform DOF 08-05-23; Law of National Waters of 2023. December 01, 1992. Last reform DOF 08-05-23; Agrarian Law of 2023. February 26, 1992. Last reform DOF 25-04-23; Law of Biosecurity of Genetically Modified Organisms of 2022. March 18, 2005. Last reform DOF 11-05-22; Energy Transition Law of 2015. December 24, 2015, among the most important.

³⁰Servicios para una Educación Alternativa A.C. EDUCA. Concesiones y proyectos mineros en el estado de Oaxaca (mapa). Consulted on June 15, 2023. Available at: <https://www.educaoaxaca.org/mapa-concesiones-y-proyectos-mineros-en-oaxaca/>

others without permits.³¹ It is important to mention that, in the case of the "Paso de la Reina" hydroelectric project, six defenders were murdered between 2021 and 2022, with no progress in the investigation of these cases.³²

At the same time, the exponential development of wind energy by private companies in the Isthmus of Tehuantepec has led to social tensions, violations of territorial rights, and aggressions against human rights defenders.

The federal government canceled new private projects, including one by the French giant EDF in Unión Hidalgo, and redesigned the rules of the electricity market. In 2023, however, it announced the construction of four new wind farms, located in the industrial parks that will be installed as part of the development program for the Isthmus of Tehuantepec.³³ Neither the granting of mining concessions nor the energy projects have been consulted with the communities directly affected by them.



The imposition of wind energy projects violates the rights and leads to aggressions against affected communities.



With regards to the Development Program for the Isthmus of Tehuantepec, known as the Interoceanic/Trans-Isthmus Corridor, the Mexican state has also failed to provide clear, transparent and timely information to the affected communities. On the contrary, the presence of the National Guard and the Navy has been a constant to intimidate the opposing communities.³⁴ The federal government conducted a consultation process in 2019, which was denounced by several communities for not respecting or guaranteeing international agreements on indigenous consultation.³⁵

³¹Servicios para una Educación Alternativa A.C. EDUCA. Ríos amenazados en Oaxaca (mapa), Consulted on June 15, 2023. Available at: <https://www.educaoxaca.org/mapa-rios-amenazados-en-oaxaca/>

³²Servicios para una Educación Alternativa A.C.. EDUCA. Historias de Vida de Defensores del Río Verde, Consulted on June 15, 2023. Available at: <https://www.educaoxaca.org/historia-de-vida-de-defensores-del-rio-verde/>

³³Carrillo E. (2023). Se construirán 4 parques eólicos en corredor del Istmo para CFE con inversión de EU: AMLO. Forbes. Available at: <https://www.forbes.com.mx/se-construiran-4-parques-eolicos-en-corredor-del-istmo-para-cfe-con-inversion-de-eu-amlo/>

³⁴Servicios para una Educación Alternativa A.C. EDUCA. Condenamos los actos intimidatorios de la Guardia Nacional y Marina en el Istmo de Tehuantepec. Available at: <https://alasyraices.org/condenamos-los-actos-intimidatorios-de-la-guardia-nacional-y-marina-en-el-istmo-de-tehuantepec/>

³⁵Red de Defensoras y Defensores Comunitarios de los Pueblos de Oaxaca-REDECOM, Servicios para una Educación Alternativa A.C. EDUCA A.C. Informe: Consulta simulada, Programa para el desarrollo del Istmo de Tehuantepec, , Oaxaca, México, abril de 2019. Available at: <https://www.educaoxaca.org/informe-redecom-consulta-simulada-sobre-el-programa-para-el-desarrollo-del-istmo-de-tehuantepec/>

V. ACCESS TO JUSTICE

Impunity is one of the wounds that scars Mexico, where the probability of access to justice is less than 1%; Oaxaca is rank 16th out of 32 states in this matter.³⁶

In the face of this impunity, the legitimate exercise of social protest has grown. From 2012 to 2021, the first demand in the list of demands in the context of protests in Oaxaca was the demand for justice.³⁷ At the same time, repression against those who exercise this right has intensified.³⁸



Legal pluralism is still not recognized.



In Oaxaca, two systems of justice coexist: on the one hand, the community or indigenous justice³⁹, and on the other, the ordinary state justice, which, at least in law, shows a legal pluralism.

Community justice is understood as the right of indigenous peoples and communities to apply their own "normative systems in the regulation and resolution of their internal conflicts"⁴⁰; a right that is explicitly recognized in state, national and international legal frameworks⁴¹. In reality, however, the judicial bodies responsible for the procurement and administration of justice still do not recognize legal pluralism. An example is the case of the Chocholteca community of San Cristóbal Suchixtlahuaca. From 2015 to 2019, municipal and agrarian authorities were prosecuted for possible abuse of authority and cattle rustling, as a result of the legitimate

³⁶Zepeda, R. (2017) Índice estatal de desempeño de las procuradurías y fiscalías. Available at: <https://www.impunidadcero.org/impunidad-en-mexico/#/>

³⁷Working Group. Space for analysis and action in the face of conflict in Oaxaca. Justice and Peace Claims. Culture of Peace. IISUABJO/ no.001/2022. Available at: <https://laoms.org/wp-content/uploads/2022/06/Oaxaca-2022-Reclamos-de-justicia-y-paz.pdf#:~:text=A%20fact%20associated%20with%20social%20protest%20in%20communities%20committed%20against%20defendants%20and%20detainees%2C%200.84%25> in relation to.

³⁸See note 24

³⁹Of the 570 municipalities that make up the State, 153 elect their municipal authorities through the political party system and 417 through the indigenous or internal normative system. More information at: https://www.te.gob.mx/publicaciones/sites/default/files/02_Reformas%20y%20transicio%CC%81n%20de%20los%20sistemas%20normativos_Castro%2C%20Vasquez.pdf

⁴⁰CPEUM. Article 2, paragraph A, sections II and III. February 5, 1917. Last amendment DOF 29-01-2016.

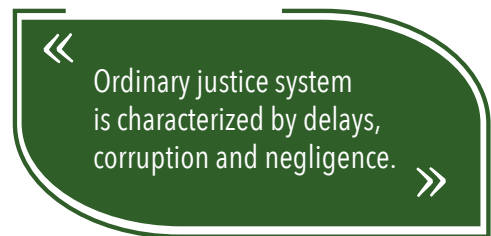
⁴¹Law on the Rights of Indigenous Peoples and Communities of the State of Oaxaca, Law of the National Commission for the Development of Indigenous Peoples and United Nations Declaration on the Rights of Indigenous Peoples.

application of the internal normative system, sanctioning responsible residents for violating a reforested and protected natural area.⁴²

The ordinary justice system, provided by law enforcement institutions⁴³ and the administration of justice⁴⁴, is characterized by a lack of judicial independence, delays, corruption, negligence, and a lack of specialized personnel⁴⁵; factors that generate and perpetuate impunity. One example is the case of Claudia Uruchurtu, who disappeared in 2021⁴⁶, in which the charge of "enforced disappearance" was reclassified by the judge as "obstruction of search". Another is that of Keyla⁴⁷, who was the victim of an attempted femicide when she was beaten, doused with gasoline and suffered burns. In 2023, her attacker was prosecuted for "alteration of health due to

gender" instead of "attempted femicide". Both cases show the negligent, biased, corrupt and gender-blind actions and the lack of judicial independence.

This ordinary justice, provided by a legal monism, violates the rights of indigenous peoples due to judicial racism, discrimination, geographical obstacles⁴⁸, the lack of an intercultural approach, the lack of interpreters and bilingual public defenders⁴⁹, and the use of technical language.



⁴²Cordero, L., Juan-Martínez, V. (2021) Jurisdicción indígena, entre la asamblea y la corte: caso San Cristóbal Suchixtlahuaca, Oaxaca. INPI. Consulta realizada el 14 de junio 2023. Disponible en: <https://www.gob.mx/cms/uploads/attachment/file/726099/libro-jurisdiccion-indigena-entre-la-asamblea-y-la-corte.pdf>

⁴³Attorney General's Office of the State of Oaxaca

⁴⁴Judicial Branch of the State of Oaxaca

⁴⁵More information in: Equis, Intersecta, RAI, Red Nacional de Refugios (2019) Acceso a la justicia para las mujeres indígenas. Informe Sombra para el Comité de la ONU para la eliminación de la discriminación racial. Available at: <https://equis.org.mx/informe-sombra-para-el-comite-de-la-onu-para-la-eliminacion-de-la-discriminacion-racial/>

⁴⁶More information available in press releases: <https://www.proceso.com.mx/reportajes/2022/12/25/caso-uruchurtu-escandalosa-impunidad-en-oaxaca-299216.html> and <https://aristeginoticias.com/3011/mexico/irregularidades-en-caso-uruchurtu-tienen-relacion-con-la-entrada-de-salomon-jara-acusa-hermana-enterate/>

⁴⁷Grande, P. (2022). Oaxaca: Carlos N fue detenido por el intento de feminicidio de Keyla; la golpeó y quemó con gasolina. SDP Noticias. Consulted on May 15, 2023. Available at: <https://www.sdpnoticias.com/estados/oaxaca/keyla-sufrio-intento-de-feminicidio-en-oaxaca-carlos-n-la-golpeo-y-quemo-con-gasolina/>

⁴⁸*1 in 5 indigenous women do not go to institutions due to lack of resources to travel to them.* More information in: Equis, Intersecta, RAI, Red Nacional de Refugios (2019) Access to Justice for Indigenous Women. Shadow Report for the UN Committee on the Elimination of Racial Discrimination. p.5. Available at: <https://equis.org.mx/informe-sombra-para-el-comite-de-la-onu-para-la-eliminacion-de-la-discriminacion-racial/>

⁴⁹*In 2018, Mexico had 25 members of the bilingual public defender corps for the entire republic and by 2021, 43.* More information at: https://hchr.org.mx/wp/wp-content/themes/hchr/images/doc_pub/2018-mexico-a-hrc-39-17-add2-sp.pdf and http://www.oas.org/es/sla/ddi/docs/defensa_publica_Sesiones_Especiales_CAJP_Novena_sesion_especial_Presentacion_Netzai_Sandoval.pdf

For this reason, community justice is becoming more valid and relevant, as illustrated by the case of Santiago Tlazoyaltepec, Etla, where in 2022, the community assembly sanctioned the former municipal authorities for corruption and diversion of public resources⁵⁰, demonstrating that community or indigenous justice is more accessible, closer, culturally appropriate, uses the same language, is a source of resolution and social cohesion, and plays a fundamental role, where state justice institutions have little or no presence.⁵¹



Community justice is more accessible, closer and culturally appropriate.



⁵⁰Poder Judicial del estado de Oaxaca (2023) Realiza la Sala de Justicia Indígena visita In Situ, sin precedentes en Oaxaca. Consulted on May 20, 2023. Available at: <https://www.tribunaloaxaca.gob.mx/Home/getPublicacion?idInformacion=334877>

⁵¹Report of the Special Rapporteur on the Rights of Indigenous Peoples, Access to Justice (2019). pp. 8-13. Available at: <https://www.ohchr.org/es/special-procedures/sr-indigenous-peoples/annual-thematic-reports-special-rapporteur-rights-indigenous-peoples>

VI. HUMAN RIGHTS DEFENDERS

For more than 10 years, Oaxaca has been one of the most dangerous entities for human rights defenders in Mexico. According to official data, 14 murders of human rights defenders were registered between 2018 and 2022, making it the second deadliest entity in the country.⁵² On the other hand, data from civil society places it in first place, with 47 murders registered in the same period.⁵³

The involvement of local authorities was documented in 39% of the murders, while 21% came from de facto powers.⁵⁴ Thus, violence is fueled by the complicity between de facto powers and local authorities, which has an impact on the reduction of security incidents

before crimes occur. This situation makes it difficult to alert in time and protect lives.

Most of the defenders murdered belonged to indigenous peoples and were defending their lands and territories.⁵⁵ Thus, the Escazú Agreement, which entered into force in 2021 and which establish the state's obligation to protect environmental defenders, is a dead letter.⁵⁶



Violence is fueled by the complicity between de facto powers and local authorities.



⁵²National Human Rights Commission (2022) Homicides of human rights defenders reported by the Protection Mechanism. p. 55. Available at: https://www.cndh.org.mx/sites/default/files/documentos/2022-05/Diagnostico_Mecanismo_Proteccion_Personas_Defensoras.pdf.

⁵³ 9 killings were registered in 2018 and 38 from 2019 to 2022. Data from:

Consortio Oaxaca (2021). Killings, threats and attacks against Human Rights Defenders in Oaxaca. p.6. Available at: https://consorciooaxaca.org/wp-content/uploads/2021/03/informe-ONU_compressed.pdf and Servicios para una Educación Alternativa A.C. EDUCA. (2023). Available at: <https://alasyraices.org/>.

⁵⁴Servicios para una Educación Alternativa A.C. EDUCA. Alas y raíces. Available at: <https://alasyraices.org/>

⁵⁵Consortio Oaxaca (2020) Situación de defensores y defensoras en Oaxaca 2017-2019. p. 39. Available at: <https://consorciooaxaca.org/wp-content/uploads/2022/04/Situacio%CC%81n-de-Defensores-y-Defensoras-en-Oaxaca.pdf>

Y Servicios para una Educación Alternativa A.C. EDUCA. (2023). Alas y raíces. Available at: <https://alasyraices.org/>

⁵⁶Official Journal of the Federation (2021) Decree promulgating the Escazú Agreement in Article 9 mentions that "A safe and enabling environment will be guaranteed in which individuals, groups and organizations that promote and defend human rights in environmental matters can act without threats, restrictions and insecurity." Available at: https://www.dof.gob.mx/nota_detalle.php?codigo=5616505&fecha=22/04/2021#gsc.tab=0

Particularly serious is the impunity with which the murders continue, due to the lack of rigor in the investigation and application of differentiated protocols.⁵⁷ There are backlogged files of serious cases such as the Agua Fria Massacre (2002); the crimes against APPO activists (2006-2007); the murder of Bety Cariño and Jyri Jaakkola (2010), the murder of Bernardo Méndez and Bernardo Vásquez (2012) and the Río Verde defenders: Fidel Heras Cruz, Noé Robles Cruz, Raymundo Robles Riaño, Gerardo Mendoza Reyes, Jaime Jiménez Ruiz, Filogonio Martínez Merino (2021-2022) just to mention some of the most resonant cases.

Other grievances against defenders also go unpunished, as in the case of the feminist organization Consorcio Oaxaca, which filed 10 complaints between 2011 and 2022 for trespassing (8), threats (1) and damage to the office (1), none of which resulted in access to justice.⁵⁸

It is also worth noting the particularly high risk faced by women human rights defenders,

specifically for those who defend women's rights.⁵⁹ Various types of specific gendered attacks have been recorded, such as insults, slander or sexually charged defamation.⁶⁰

Another characteristic of Oaxaca is the criminalization and persecution of human rights defenders. In our previous report, we reported that the UN Working Group on Arbitrary Detention had issued five opinions on cases of human rights defenders in Oaxaca, which have yet to be fully implemented. Pablo López Alavez remains unjustly deprived of his liberty.⁶¹ The pattern of arbitrary detention and torture of human rights defenders has also been recognized by the UN Committee against Torture, through Resolution 992/2020 on the case of Damián Gallardo Martínez.⁶²



Liberation of Pablo López is still pending despite of the opinion of UN experts on the case



⁵⁷Consorcio Oaxaca (2020) Situación de defensores y defensoras en Oaxaca 2017-2019. p.43 Available at: <https://consorciooaxaca.org/wp-content/uploads/2022/04/Situacio%CC%81n-de-Defensores-y-Defensoras-en-Oaxaca.pdf>

⁵⁸ The files are either in reserve (4), investigation stage (3), no criminal action (1), prosecution without sentence (1), no information on their location (1).

⁵⁹Situación de defensores y defensoras en Oaxaca 2017-2019. p. 67 Available at: <https://consorciooaxaca.org/wp-content/uploads/2022/04/Situacio%CC%81n-de-Defensores-y-Defensoras-en-Oaxaca.pdf>

⁶⁰Idem, (2020) p.59

⁶¹Opinions 23/2014/ Damián Gallardo Martínez, 19/2015/ Librado Jacinto Baños Rodríguez, 17/2016/ 25 members of the Oaxacan social movement, 23/2017/ Pablo López Alavez and 24/2017/ Mario Olivera Osorio. More information available at: <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5679&file=SpanishTranslation> and at <https://consorciooaxaca.org/2022/08/caso-pablo-lopez-alavez-ficha-informativa/>

⁶²United Nations. Committee Against Torture (2022 Decision adopted by the Committee under article 22 of the Convention in respect of communication No. 992/2020. Available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=-CAT%2FC%2F72%2FD%2F992%2F2020&Lang=en

Finally, it is worth noting the gradual dismantling of the few existing mechanisms and policies for protection since 2018, as happened with the Specialized Ombudsman's Office for the Protection of Human Rights Defenders and Journalists, which was dismantled.⁶³ A policy of unilateral withdrawal and refusal to grant protection measures has been documented from 2018 to 2022.

Faced with this situation, 38 civil organizations presented a legislative package in 2022 aimed at strengthening protection, and increasing criminal and administrative sanctions against state and municipal officials who impede or obstruct freedom of expression and the defense of human rights, which has not yet been approved.⁶⁴



The approval of reforms to guarantee the work of human rights defenders is urgent.



⁶³More information at Article 19 (2016) Creación de la Defensoría Especializada en Atención a Defensores de Derechos Humanos y Periodistas. Available at: <https://articulo19.org/oaxaca-la-frecuencia-del-miedo/>

⁶⁴Consortio Oaxaca (2022) Segob y DDHPO respaldan iniciativa de sociedad civil para fortalecer protección de personas defensoras y periodistas en Oaxaca. Available at: <https://consorciooaxaca.org/2022/09/segob-y-ddhpo-respaldan-iniciativa-de-sociedad-civil-para-fortalecer-proteccion-de-personas-defensoras-y-periodistas-en-oaxaca%E2%99%BC/>

VII. FREEDOM OF EXPRESSION

Practicing journalism and defending freedom of expression in Mexico is synonymous with death, disappearances, aggression and impunity. According to Reporters Without Borders, Mexico is the deadliest country for journalists from 2019 to 2022.⁶⁵

Based on data from the National Protection Mechanism, which recorded four murders from December 2018 to June 2022, Oaxaca is the fifth entity with the most murders of journalists.⁶⁶ While civil society organizations place it in fourth place, along with Quintana Roo.⁶⁷



Defending freedom of expression is synonymous with death, disappearances, aggression and impunity.



In turn, from 2019 to 2022, the Office of the Human Rights Ombudsman of the People of Oaxaca initiated 76 investigations related to attacks against journalists. The most reported authorities are the municipal governments, the Attorney General's Office of the State of Oaxaca and the Ministry of Public Security. The most common aggressions are threats, obstruction of the practice of journalism, harassment, physical aggression, obstruction of access to information and trespassings.⁶⁸

On the other hand, from 2018 to April 2023, the Attorney General's Office of the State of Oaxaca opened 184 investigation files⁶⁹ for crimes committed against journalists in the entity: 64 for threats, 32 for crimes against freedom of expression, 13 for robbery, five for expropriation, four for abuse of authority, four for damages and three for disappearances.⁷⁰ There is no information on the progress of these investigations.

⁶⁵More information at Article 19 (2016) Creación de la Defensoría Especializada en Atención a Defensores de Derechos Humanos y Periodistas. Available at: <https://articulo19.org/oaxaca-la-frecuencia-del-miedo/>

⁶⁶Reporters Without Borders. (2022) Balance 2022 of imprisoned, murdered, kidnapped and disappeared journalists in the world. p.16. Available at: <https://www.rsf-es.org/wp-content/uploads/2022/12/Balance-2022.pdf>

⁶⁷Matías P. (2022). Oaxaca, 2º lugar en asesinato de defensores y 5º de crímenes contra periodistas: Segob. Informativo 6y7. Consulted on May 15, 2023. Available at: <https://informativo6y7.mx/oaxaca-2o-lugar-en-asesinato-de-defensores-y-5o-de-crimenes-contra-periodistas-segob/>

⁶⁸Article 19 (n.d.) Periodistas asesinados en México. Available at: <https://articulo19.org/periodistasasesinados/>

⁶⁹Office of the Human Rights Ombudsman of the People of Oaxaca. (2022) Cumulative report from January 1 to December 31, 2022. Available at: https://www.derechoshumanosoaxaca.org/informesestadisticos/Informe_Anual_2022.pdf

⁷⁰18 in 2018, 28 in 2019, 32 in 2020, 56 in 2021, 39 in 2022 and 11 in 2023.

The particular vulnerability of journalists working in communities should be noted. The four murders⁷¹ registered by the National Protection Mechanism occurred in rural areas or small towns outside the center; two were community radio broadcasters.

Impunity is the State's biggest grievance, as shown by the case of Heber López Osorio: 17 months after his murder, and despite the fact that the probable perpetrators have been identified, the trial remains inconclusive, increasing the risk for the family which is demanding justice and has had to relocate. The same is true for the two cases presented in our previous report: the attack against the director of a news portal, Jaime Méndez Pérez, remains unpunished, and the journalist Agustín Silva Vásquez is still missing.⁷²



Journalists working in communities face a very high risk.



The specialized agencies for investigation and protection, both federal and state, are white elephants that justify the negligence.⁷³

The guarantee of protection is another major issue that remains unresolved; protection programs are ineffective and delayed, as demonstrated by one of the four murdered journalists: Gustavo Sánchez Cabrera, who was incorporated to the National Mechanism⁷⁴, but at the time of his murder no protection measures had been implemented, which is why the National Human Rights Commission issued Recommendation 121/2022.⁷⁵

No less serious is the stigmatization of journalists by the State, which has been documented more systematically in official media outlets since the beginning of the new public administration in Oaxaca.⁷⁶

Finally, journalists in Oaxaca face precarious salaries and lack of access to minimum labor and social rights, a situation that has been exacerbated by the crisis caused by the pandemic.⁷⁷

⁷¹Attorney General's Office of the State of Oaxaca. Information card delivered to journalists on April 18, 2023.

⁷²Telésforo Santiago Enríquez, radio broadcaster murdered on May 2, 2019 in San Agustín Loxicha, Isthmus; Gustavo Sánchez Cabrera, murdered on June 17, 2021 in Morro Mazatán, Coast; Arturo Jorge Ramírez radio broadcaster murdered on August 16, 2019 in Huajuapán de León, Mixteca; Heber López Osorio, murdered on February 10, 2022 in Salina Cruz, Isthmus.

⁷³Under Attack, human rights in Oaxaca 2013-2018. Citizen report. Oaxaca-Mexico, March 2018

⁷⁴Protection Mechanism for Human Rights Defenders and Journalists (2021) We condemn the murder of journalists Gustavo Sánchez Cabrera and Enrique García García. Available at: <https://www.gob.mx/defensorasperiodistas/es/articulos/condenamos-el-homicidio-de-los-periodistas-gustavo-sanchez-cabrera-y-enrique-garcia-garcia?idiom=es>

⁷⁵CNDH (2022) Recommendation 12/2022. Available at: https://www.cndh.org.mx/sites/default/files/documentos/2022-07/REC_2022_121.pdf

⁷⁶Consortio Oaxaca (2023) Condenamos la estigmatización de personas periodistas en Oaxaca. Available at: <https://consorciooaxaca.org/2023/05/14306/>

⁷⁷Foro "Hacia dónde va el periodismo en Oaxaca" realizado en el Centro de Evaluación e Innovación Educativa CEVIE-UABJO. Inauguración del Diplomado Latinoamericano de Periodismo Multimedia. July 14, 2023.

VIII. FEMICIDE VIOLENCE

The largest number of recommendations issued in the previous review⁷⁸ related to violence, discrimination, and lack of access to justice for women.

The lack of political will and simulation for gender public policies continues to be the main obstacle for women, a situation that is evident in the implementation process of the Gender Violence against Women Alert (AVGM), declared since August 2018.⁷⁹ State actions for its implementation have been uncoordinated and simulated, which demonstrates the structural causes of violence and the lack of interest in developing effective policies for the attention, processing and follow-up for women in situations of violence, especially in rural and isolated areas.⁸⁰

The lack of resources allocated to specific and traceable activities for the implementation of the AVGM and the public gender policy is another of the main challenges and symptoms of the State's obfuscation and disinterest.⁸¹

«

It has not been possible to know how thousands of millions allocated to gender policy are being executed.

»

In turn, impunity and lack of access to justice are still aggravating. From 2018 to 2022, 29 convictions for femicide were handed down⁸², which represents less than 5% of the 602 femicides registered by civil society during this period.⁸³

⁷⁸58 of the 265 recommendations issued were in relation to issues of violence, discrimination and lack of access to justice for women. Report available at: United Nations, General Assembly. "Report of the Working Group on the Universal Periodic Review. Mexico". (p.10-27) A/HRC/40/8 (December 27, 2018), Available at: <https://www.ohchr.org/es/hr-bodies/upr/mx-index>

⁷⁹Resolution of the Ministry of the Interior regarding the request AVGM/04/2017 Gender Violence Alert against Women in the State of Oaxaca. (August 30, 2018) Available at: <https://www.gob.mx/conavim/documentos/solicitud-de-alerta-de-violencia-de-genero-contra-las-mujeres-en-el-estado-de-oaxaca>

⁸⁰Consortio Oaxaca (2021). Balance de la Alerta de Violencia de Género contra las Mujeres en Oaxaca p.72. Available at: <https://consorciooaxaca.org/wp-content/uploads/2022/03/Informe-Tres-anos-de-simulacion-de-transparencia-y-descoordinacion-institucional.pdf>

⁸¹Idem (2021) pp.38-62

⁸²Response of the Superior Court of Justice of Oaxaca to requests for information registered with the folio number: 00432621 and 00432321 and Information Card delivered by the FGEO in March 2023.

⁸³Consortio Oaxaca. Plataforma Violencia Feminicida. Available at: <https://violenciafeminicida.consortiooaxaca.org.mx/>

Moreover, despite the obligation to investigate all violent deaths of women as femicides⁸⁴, most are still investigated as homicides ; from 2018 to 2022, 453 cases were opened for intentional homicide of women, practically three times more than for femicide (173).⁸⁵ The protocol for the investigation of femicide⁸⁶ is also not updated or applied.

In this context, femicide violence continues to increase. Compared to the previous assessment period (2013-2017), a 126% increase in femicides was documented during the period covered by this report (2018-2022).⁸⁷ This trend is confirmed in 2023, where 54 femicides were documented in the first half of the year.

The same is observed for disappearances, which have increased exponentially, with an increase of 131.7% in 2021, and 103.4% in 2022; registering a total of 1,943 missing women and girls from

2018 to 2022 and 254 in the first half of 2023 alone.⁸⁸ Fifty-six percent of the missing women and girls are minors.

As for sexual violence, according to official data, the prevalence in Oaxaca remains very high, reaching 39.1% in 2021.⁸⁹ Family violence is also alarming, with Oaxaca ranking eighth⁹⁰ in the country in terms of prevalence. The detection and processing of cases of sexual and family violence is practically non-existent⁹¹, so access to justice for these crimes is even rarer; from 2018 to June 2021 there is not a single sentence for sexual violence and only 25 for family violence.⁹²



Most of violent deaths of women are not being investigated as femicides.



⁸⁴ Supreme Court of Justice of the Nation (2015). Judgment in the Mariana Lima Buendía case. Available at: <https://www.scjn.gob.mx/derechos-humanos/sites/default/files/sentencias-emblematicas/sentencia/2020-12/AR%20554-2013.pdf>

⁸⁵ Attorney General's Office of the State of Oaxaca. Statistics. Available at: <https://fge.oaxaca.gob.mx/index.php/estadisticas>

⁸⁶ Consorcio Oaxaca (2021) Estatus del cumplimiento de recomendaciones internacionales en materia de violencia por razón de género: El caso de Oaxaca. p.23. Available at: <https://consorciooaxaca.org/wp-content/uploads/2021/02/Informe-Sombra-CEDAW2021.pdf>

⁸⁷ 475 femicides were documented from 2013 to 2017 and 602 from 2018 to 2022 based on data from the platform violencia feminicida. For more information: Consorcio Oaxaca. Plataforma de violencia feminicida. Available at: <https://db.violenciafeminicida.consorciooaxaca.org.mx/categorias/feminicidios>

⁸⁸ For more information: Consorcio Oaxaca. Plataforma de violencia feminicida. Available at: <https://db.violenciafeminicida.consorciooaxaca.org.mx/categorias/desaparecidas>

⁸⁹ INEGI (2022) Encuesta Nacional sobre la Dinámica de las Relaciones de los Hogares (ENDIREH) p.30 Available at: https://www.inegi.org.mx/contenidos/programas/endireh/2021/doc/endireh2021_presentacion_ejecutiva.pdf

⁹⁰ Idem (2022) p.66.

⁹¹ Consorcio Oaxaca (2021). Balance de la Alerta de Violencia de Género contra las Mujeres en Oaxaca p.72. Available at: <https://consorciooaxaca.org/wp-content/uploads/2022/03/Informe-Tres-anos-de-simulacion-falta-de-transparencia-y-descoordinacion-institucional.pdf>

⁹² Response from the Superior Court of Justice of Oaxaca to the request for information registered with the folio number: 00432321

With regard to sexual and reproductive rights, in 2019, abortion was decriminalized in Oaxaca⁹³; however, there are no public policies, budgets or trained personnel to guarantee full access to legal abortion; in addition, health centers do not have sufficient contraceptive methods. Nor have the necessary constitutional reforms been made to curb conscientious objection, one of the main obstacles faced by women.



Guarantees for real access to legal abortion are still pending.



⁹³Articles amended by decree number 806, approved by the LXIV Legislature on September 25, 2019 and published in the Periódico Oficial Extra of October 24, 2019. Available at: https://docs64.congresoosaxaca.gob.mx/documents/decrets/POLXIV_0806.pdf

IX. CHILDHOOD AND ADOLESCENCE

Oaxaca is home to 1.4 million children and adolescents, 24.4% of whom speak an indigenous language; it is the state with the second largest indigenous population of children and adolescents.⁹⁴ 71.8% live in poverty, making it the third entity with the highest percentage of minors in this condition.⁹⁵ It is also the third Mexican state with the highest percentage of children and adolescents with deficiencies in relation to access to healthy and nutritious food, health services and housing.⁹⁶



71.8% of children and adolescents live in poverty.



The SARS-COV 2 emergency further widened the gap of economic and social inequalities. During the pandemic, access to quality education became more precarious, with a 23% drop in school enrollment.⁹⁷ The official measures of "online education" had a particular impact on children and adolescents living in villages without electricity or television. As a result, in 2020, 12.7% of the population between the ages of 3 and 17 faced education gap.⁹⁸ Oaxaca occupies the second place with the second highest percentage of this deficiency in relation to the rest of the states.

Regarding the right to health and the right to nutritious and quality food, in 2021, 35.4% of minors lacked access to health services, in addition to the fact that since 2018 Oaxaca has been in first place in terms of childhood obesity.⁹⁹

⁹⁴Red por los Derechos de la Infancia en México (2022) Ficha Técnica: infancia y adolescencia en Oaxaca. Available at: <https://blog.derechosinfancia.org.mx/2022/11/22/ficha-tecnica-infancia-y-adolescencia-en-oaxaca-noviembre-2022/>

⁹⁵Consejo Nacional de Evaluación de la Política de Desarrollo Social CONEVAL (2020). Informe de pobreza y evaluación 2020. Oaxaca. p.23 Available at: https://www.coneval.org.mx/coordinacion/entidades/Documents/Informes_de_pobreza_y_evaluacion_2020_Documentos/Informe_Oaxaca_2020.pdf

⁹⁶Red por los Derechos de la Infancia en México (2022) Ficha Técnica: infancia y adolescencia en Oaxaca. Available at: <https://blog.derechosinfancia.org.mx/2022/11/22/ficha-tecnica-infancia-y-adolescencia-en-oaxaca-noviembre-2022/>

⁹⁷Cruz Z. (2023) Pega pandemia en matrícula escolar; cae 23 en Oaxaca. El Imparcial Oaxaca. Consulted on May 25, 2023. Available at: <https://imparcialoaxaca.mx/oaxaca/737631/pega-pandemia-en-matricula-escolar-cae-23-en-oaxaca/>

⁹⁸Red por los Derechos de la Infancia en México (2022) Ficha Técnica: infancia y adolescencia en Oaxaca. Available at: <https://blog.derechosinfancia.org.mx/2022/11/22/ficha-tecnica-infancia-y-adolescencia-en-oaxaca-noviembre-2022/>

⁹⁹Cruz-Echavarría, Martínez-Sánchez, Neri-Caballero (2018) Impacto de la aplicación del programa EDUSANU-Latinoamérica en sobrepeso y obesidad en alumnos de una Escuela Primaria del Estado de Oaxaca. Avanc Salud Med 2018; 5 (2) p.36. Available at: <https://www.oaxaca.gob.mx/salud/wp-content/uploads/sites/32/2019/01/Acs182-01i.pdf>

In 2020, 35.9% lacked access to nutritious and quality food.¹⁰⁰ The pandemic has claimed the lives of at least 44 minors.¹⁰¹ In this context, in 2020, Oaxaca's Child and Adolescent Rights Law¹⁰² was reformed, to prohibit the distribution, donation, gift, sale and supply of sugary drinks and ultra-processed products to minors. Oaxaca was the first Mexican state to approve such a legislative reform. Like others, it remained a dead letter because no budget was allocated for its implementation, and no measures were taken to guarantee the protection of young people's right to health. In schools, children consume about 500 calories a day. This is enough to put on between 3 and 5 kilos a year. It is estimated that one in two Mexican children born since 2000 will develop diabetes in their lifetime.¹⁰³

It is worth noting the dramatic increase in violence against minors; during the period covered by the evaluation, high levels of cruelty

in homicides¹⁰⁴ and an increase in violence against girls were documented: 40% of the cases of femicide violence recorded from December 2022 to April 2023 were against minors.¹⁰⁵

«

It is urgent to allocate budget to guarantee young people's right to health.

»

A case that illustrates the violations of the rights of children and adolescents, as well as the omissions of educational, human rights and judicial institutions, is that of Paola¹⁰⁶, a teenager from San José Manialtepec, Villa de Tututepec, Oaxaca, who was discriminated against for wearing pants instead of the "traditional" school uniform skirt, for which she was expelled from school.

¹⁰⁰Consejo Nacional de Evaluación de la Política de Desarrollo Social CONEVAL (2022) Informe de pobreza y evaluación 2022. Oaxaca p.25. Available at: https://www.coneval.org.mx/coordinacion/entidades/Documents/Informes_pobreza_evaluacion_2022/Oaxaca.pdf

¹⁰¹Zavala J.C. (2022). Con 44 muertes, Oaxaca es el cuarto estado del país donde más niños han fallecido por Covid-19. El Universal Oaxaca. Consulta realizada el 20 de mayo 2023. Available at: <https://oaxaca.eluniversal.com.mx/estatal/con-44-muertes-oaxaca-es-el-cuarto-estado-del-pais-donde-mas-ninos-han-fallecido-por-covid>

¹⁰²Decree No. 1609. Article 20 Bis is added to the Law on the Rights of Children and Adolescents of Oaxaca. (05.08.20). Available at: https://www.congresooaxaca.gob.mx/docs64.congresooaxaca.gob.mx/documents/decrets/DLXIV_1609.pdf

¹⁰³Meza R. & others, (2015). Burden of type 2 diabetes in Mexico: past, current and future prevalence and incidence rates. Prev Med. 2015;81:445-50. Available at: <https://www.sciencedirect.com/science/article/pii/S0091743515003278?via%3Dihub>

¹⁰⁴An example of this is the case of two minors of 9 and 10 years of age from the Isthmus of Tehuantepec who were murdered on the side of the road. More information in: Amaro, D. (2023) Fiscalía revela causas de muerte de los dos niños asesinados en Oaxaca. El Heraldo de México. Available at: <https://oaxaca.heraldodemexico.com.mx/local/2023/2/20/fiscalia-revela-causas-de-muerte-de-los-dos-ninos-asesinados-en-oaxaca-7079.html>

¹⁰⁵Consortio Oaxaca (2023) Van 137 agresiones contra niñas y adolescentes en la administración de Salomón Jara Cruz. Available at: <https://consorciooaxaca.org/2023/04/van-137-agresiones-contra-ninas-y-adolescentes-en-la-administracion-de-salomon-jara-cruz/>

¹⁰⁶Redacción. (2023). Caso Paola: Estudiante discriminada por usar pantalón en Oaxaca fue aislada para tomar sus clases. El Heraldo de México Oaxaca. Consulted on May 20, 2023. Available at: <https://oaxaca.heraldodemexico.com.mx/local/2023/3/30/caso-paola-estudiante-discriminada-por-usar-pantalon-en-oaxaca-fue-aislada-para-tomar-sus-clases-8816.html>

Despite the filing of appropriate legal actions, these have not been effective in stopping the violations or guaranteeing the principle of the best interests of the youth, the fundamental right to personal development, equality and non-discrimination, and education free of gender stereotypes.



Violence against minors
increases dramatically.



X. RIGHT TO A HEALTHY ENVIRONMENT

Oaxaca has dramatic environmental problems that result in air, river and groundwater pollution, poor solid waste management and deforestation, a situation that is worsening in the context of the climate crisis.

It highlights the pollution caused by accidents, fires, theft and oil spills¹⁰⁷ in the Isthmus of Tehuantepec, a consequence of the outdated infrastructure of "Petróleos Mexicanos" and the lack of prevention, attention and remediation of these emergencies by the Mexican state oil company, causing irreparable environmental damage.¹⁰⁸

Another situation of particular concern is water and air pollution. In the Central Valleys, the contamination of the Atoyac and Salado rivers threatens the water table of the most populous region.¹⁰⁹

Periodically, policies are announced to save and clean up these rivers, but no improvements have been made. As a result, the pollution continues in the absence of viable waste management proposals. Such is the case of the Integral Center for the Revaluation of Urban Solid Waste (CIRSU), a weak and nascent proposal in view of the closure in 2022 of the only "landfill" for the capital¹¹⁰ and surrounding municipalities. The promotion of the CIRSU also violates the right to consultation and consent of the communities, generating pressure to accept, as in the case of Santa María Albarradas.¹¹¹



Contamination of rivers threatens groundwater of the most populous region.



¹⁰⁷Parliamentary Journal (28.06.17) The Senate of the Republic exhorts PEMEX to compensate the damages generated by the "Antonio Dovalí Jaime" refinery. Available at: https://www.senado.gob.mx/65/gaceta_del_senado/documento/72814

¹⁰⁸Ramírez, P. (2021) Derrames de Pemex afectan playas, salud y actividades pesqueras en puertos de Oaxaca. Causa Natura A.C. Available at: <https://causanatura.org/visualizacion-de-datos/derrames-de-pemex-afectan-playas-salud-y-actividades-pesqueras-en-puertos-de-oaxaca>

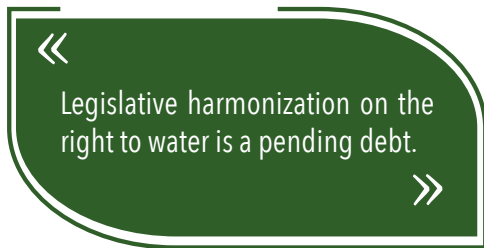
¹⁰⁹Ministry of Environment, Energy and Sustainable Development (2020). Terms of Reference for the elaboration of the Diagnostic and Basic Engineering Study of the Wastewater Sanitation Project. Available at: <https://www.oaxaca.gob.mx/semaedeso/wp-content/uploads/sites/59/2020/08/T%C3%A9rminos-de-Referencia-Estudio-r%C3%ADO-Atoyac-y-El-Salado.pdf>

¹¹⁰Redacción (2022) Se agudiza problema de la basura en Oaxaca por cierre de basurero. Río Oaxaca. Consulted on May 19, 2023. Available at: <https://www.rioaxaca.com/2022/07/19/se-agudiza-problema-de-la-basura-en-oaxaca-por-cierre-de-basurero/>

¹¹¹Zavala J.C., (2023) Albarradas rechaza construcción de Centro de Revalorización de Residuos Urbanos de Oaxaca. El Universal. Consulted on May 15, 2023. Available at: <https://oaxaca.eluniversal.com.mx/sociedad/albarradas-rechaza-construccion-de-centro-de-revalorizacion-de-residuos-urbanos-de-oaxaca>

The lack of a solid project in the face of the garbage crisis, leads to the appearance of "clandestine" garbage dumps, on the banks of the Atoyac River, with leachate and fires that contaminate water and air.¹¹²

With regards to the right to water and its management, there are also serious legal gaps, as they are not in line with the international normative framework¹¹³ that guarantees the rights and autonomy of indigenous peoples in this area. In fact, the National Water Law¹¹⁴ has not been reformed and the management and control of the right to water from an indigenous perspective for agricultural and livestock use has not been guaranteed.



On the other hand, the exponential growth of the maguey monoculture¹¹⁵ in the Central Valleys is a cause for concern, since it creates sources of contamination in the aquifer through chemicals used for pest control and fertilizers. Monoculture and illegal logging are some of the factors causing another environmental disaster in the state: deforestation. Oaxaca is the state with the second largest number of hectares deforested per year.¹¹⁶

Finally, in Oaxaca, attention to climate change is being simulated. Since 2013, a law has been published¹¹⁷ to regulate, promote and enable the implementation of the state policy on climate change and incorporate adaptation, disaster prevention and mitigation actions, with a gender focus; without having been translated into effective public policies to date. Oaxaca, due to its terrain, faces high risks of impacts: between 1999 and 2017, most of the 570 municipalities of Oaxaca were declared disaster zones¹¹⁸: 2621 times due to hurricanes and storms and 218 times due to drought.

¹¹²Gobierno de México. PROFEPA impone medidas de urgentes aplicación al municipio de Oaxaca, por basurero a cielo abierto en el cauce del Río Atoyac. Available at: <https://www.gob.mx/profepa/prensa/profepa-impone-medidas-de-urgentes-aplicacion-al-municipio-de-oaxaca-por-basurero-a-cielo-abierto-en-el-cauce-del-rio-atoyac>

¹¹³International Labour Organization. ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. United Nations Declaration on the Rights of Indigenous Peoples, 2014. Available at: https://www.ilo.org/wcmsp5/groups/public/-/americas/-/ro-lima/documents/publication/wcms_345065.pdf

¹¹⁴National Water Law of 2023. December 01, 1992. Last Reform DOF 08-05-23

¹¹⁵Manzo, D. (2022) La resaca del mezcal oaxaqueño: el daño ecológico por la industria de la bebida ancestral. El Diario AR. Consulted on May 15, 2023. Available at: https://www.eldiarioar.com/sociedad/medio-ambiente/resaca-mezcal-oaxaqueño-dano-ecologico-industria-bebida-ancestral_1_9252319.html

¹¹⁶Ministry of Environment and Natural Resources. In Oaxaca 18,757 ha/year are deforested according to the National Forestry Information System. Available at: <https://snmf.cnf.gob.mx/deforestacion/>

¹¹⁷Climate Change Law for the State of Oaxaca (2013). Available at: https://normas.cndh.org.mx/Documentos/Oaxaca/Ley_CCE_Oax.pdf

¹¹⁸Instituto Nacional de Ecología y Cambio Climático INECC (2019) Vulnerabilidad al cambio climático. Oaxaca. Available at: https://cambioclimatico.gob.mx/estadosymunicipios/Vulnerabilidad/V_20.html

XI. RECOMMENDATIONS

➤ 1. PUBLIC POLICY ON HUMAN RIGHTS

- Allocate a sufficient, labeled, and transparent budget, with measurable and accessible indicators to evaluate public policies on human rights.
- Guarantee the active participation of civil society and non-governmental organizations in favor of human rights in the development, evaluation and monitoring of public policies on human rights.
- Urgently implement the autonomy of the autonomous human rights institutions, especially the Office of the Attorney General of the State of Oaxaca, on which the eradication of impunity depends.

➤ 2. SECURITY AND MILITARIZATION

- Respect and guarantee the self-determination and autonomy of indigenous and Afro-Mexican communities with regard to community life and protection.
- End the presence of the armed forces in public security functions, with priority given to indigenous communities where megaprojects are to be imposed.

➤ 3. LAND, TERRITORY AND INDIGENOUS PEOPLES

- Guarantee the right of indigenous peoples to self-determination over their lands, territories and natural resources by suspending all projects that do not comply with these requirements, especially the Interoceanic/Trans-Isthmus Corridor.
- Harmonize the state's legal framework with international standards, and promote reforms to the constitutional frameworks to guarantee the recognition and full exercise of the rights of indigenous peoples and communities to self-determination, territory and a healthy environment.

➤ 4. ACCESS TO JUSTICE

- Respect and guarantee the self-determination and autonomy of indigenous and Afro-Mexican communities with regard to indigenous justice and jurisdiction.
- Guarantee the right of individuals, indigenous peoples and Afro-Mexicans to the jurisdiction of the State through an intercultural approach.
- Create and implement a mechanism to investigate and sanction omissions or negligence on the part of law enforcement and judicial authorities.

➤ 5. HUMAN RIGHTS DEFENDERS AND FREEDOM OF EXPRESSION

- Reform the state's legal framework by strengthening sanctions against officials who impede or obstruct freedom of expression and the defense of human rights.
- Recognize, disseminate and guarantee the exercise of freedom of expression and the right to defend human rights, with particular emphasis on recognizing the right to social protest.
- Establish a legal framework that guarantees that journalistic enterprises comply with their legal obligations towards media workers, such as minimum wages, social security and legal benefits.
- Fully comply with the opinions of the United Nations Working Group on Arbitrary Detention regarding the cases of defenders in Oaxaca, guaranteeing as a priority the liberation of Pablo López Alavez.

➤ 6. VIOLENCE AGAINST WOMEN

- Initiate sanctions against law enforcement agencies that fail to investigate violent deaths of women as femicides.
- Allocate a sufficient, labeled, and transparent budget, with measurable and accessible indicators for the full implementation and evaluation of the AVGM.
- Guarantee free and full access to abortion by providing health centers with trained personnel and sufficient technical and human resources, and by promoting constitutional reforms to curb conscientious objection.

➤7. CHILDHOOD AND ADOLESCENCE

- Fully implement reforms that guarantee the right to healthy and nutritious food for children and adolescents.
- Allocate sufficient, labeled, and transparent budgets, with measurable and accessible indicators to guarantee the right to health and education of children and adolescents, with special attention to rural areas and indigenous communities.
- Review the legal framework, public policies and budgets to guarantee the prevention, recognition and punishment of discrimination and femicide violence against girls and adolescents.

➤8. RIGHT TO A HEALTHY ENVIRONMENT

- Reform the National Water Law to incorporate the standards of the human right to water and sanitation, as well as the recognition of its management from an indigenous perspective for agricultural and livestock use.
- Ensure the implementation of the Escazú Agreements and the protection of environmental defenders, as well as international standards for reparation and restoration of environmental damage.
- Implement comprehensive solid waste management programs that are technically and culturally relevant, respect human rights, and meet international standards for reparations and compensation.

➤9. FOLLOW-UP

- Establish a follow-up mechanism with annual accountability for compliance with the recommendations made to the Mexican State in all UPR cycles.

