

National Mechanisms to Document Victims of Human Rights Violations in Mexico

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1. Introduction

In late 2006, the Mexican population started to experience a *sui generis* conflict, namely a ‘War on Drugs’, involving the direct confrontation between the State and its armed forces and organised crime groups related to drug trafficking, as well as a third player, community self-defence groups.

Following the government announcement that all State forces would be fighting against the drug lords, violence has become a constant part of Mexican life. By 2013, more than 144,000 lives had been lost,¹ at least 26,000 persons have gone missing² and countless individuals and communities have suffered from violations of their human rights. In addition, the number of complaints concerning such violations increased from 12,534 in 2005 to 36,832 in 2010 – an increase of 194% in just five years.³ The National Security Survey’s statistics for 2013 show that the homicide rate per 100,000 people continues to grow, with a 3.2% rise from the previous period.⁴ The lack of public information on the purpose and expected outcomes of these military offensives has made it extremely difficult to measure progress and effectiveness.⁵ What is clearly visible to society is its effects: a daily count of bodies and

clashes, the number of drug lords captured or killed, repeated violations of human rights, discovery of clandestine mass graves, and the general sense of impunity and mistrust in the authorities to safeguard the population from the effects of the escalation of violence in many regions of the country.

Several initiatives have been created by the State in response to the exponential rise in victims of this conflict. These include the cataloguing or recording of victims of certain thematic crimes (section 3 below) and assistance to victims and reparations (section 2). This policy brief intends to address the shortcomings of the statistical approaches in systematically responding to high quantity victimisation, and argues for greater consideration of the individual stories of victims in the process of making justice.

2. The Executive Commission of Attention to Victims

In 2011, the Attorney’s Office for the Attention of Victims of Crime (‘PROVICTIMA’)⁶ was established to respond to the needs of victims and their families. PROVICTIMA had three main objectives: (i) to ensure access to specialised multidisciplinary services for victims of crime; (ii) to create and strengthen current mechanisms to support victims; and (iii) to advise victims and protect their rights. Nevertheless, despite its objectives, PROVICTIMA struggled to establish credibility among victim groups and civil society organisations.

One major consequence of a constitutional reform of 2012 in relation to victims’ rights has been the development of a General Law for Victims (‘LGV’).⁷ Adopted on 9 January 2013, after extensive consultations with NGOs, the law can be understood as a response to the increasing demands of society in the face of the ongoing violence,

¹ El Instituto Nacional de Estadística y Geografía (‘INEGI’), “En 2013 Se Registraron 22 Mil 732 Homicidios” Boletín de Prensa 301/14, 23 July 2014 (<http://www.legal-tools.org/doc/8b5a73/>).

² Human Rights Watch, “World Report 2014: Mexico”, 2014, pp. 265–272 (<https://www.legal-tools.org/doc/6715ef/>).

³ Compiled by the Comisión Ejecutiva de Atención a Víctimas with data from the Comisión Nacional de los Derechos Humanos, 2013 Report.

⁴ INEGI, “Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública (ENVIPE)”, 2014 (<http://www.inegi.org.mx/est/contenidos/proyectos/encuestas/hogares/regulares/envipe/envipe2014/default.aspx>).

⁵ SEDENA and Los Pinos do not have documents concerning the anti-crime strategy of former Mexican President Felipe Calderon Hinojosa (<http://aristeginoticias.com/2205/mexico/sedena-y-los-pinos-declaran-la-inexistencia-de-una-estrategia-de-combate-al-crimen/>).

⁶ Marcela Turati, “Provictima, una simulación”, *Revista Proceso*, 17 October 2011 (<http://www.proceso.com.mx/?p=284619>).

⁷ Ley General de Víctimas, 3 May 2013 (<http://www.legal-tools.org/doc/0fdc8c/>).

and an effort of the State to tend to its victims. This law recognises and assures victims' rights, especially the right to assistance, protection, care, truth, justice, reparation, due diligence, as well as other rights enshrined within the Mexican Constitution, international human rights treaties and other human rights instruments. It also established the mandate to co-ordinate the necessary actions to promote, respect, protect, ensure and enable victims to effectively exercise their rights; to implement mechanisms to ensure that all authorities within their respective powers fulfil their obligations to prevent, investigate, punish and guarantee full compensation; and it defined the specific duties and obligations of the authorities and other bodies that are involved in the procedures related to victims.

The LGV was amended five months later, in May 2013, transforming PROVICTIMA and establishing the Executive Commission of Attention to Victims ('CEAV'), which came into existence in January 2014. CEAV is an institution responsible for co-ordinating action to comply with the mandate of the LGV. CEAV has three main purposes: First, to establish and operate the National Registry of Victims ('RENAVI'). This Registry will consolidate the information provided by the executive committees of the 32 states comprising the Mexican federation, and must ensure universal access to the assistance provided under the Law. Second, to define the operating rules of the Compensation and Assistance Fund. Finally, to establish legal counsel which the three levels of government (federal, state and municipal) will provide to victims.

2.1. The National Registry of Victims

The National Registry of Victims is a fundamental component of CEAV's mandate. It is a mechanism that serves two core purposes: First, to ensure that victims have timely and effective access to the guarantees foreseen in the law;⁸ and second, to serve as a platform to integrate, develop and consolidate information on victims in order to guide policies, plans and other initiatives in their favour and for the prevention of crimes and human rights violations.⁹

During the planning process of the entire platform of RENAVI, a number of considerations were taken into account by CEAV, including:

- Ethnographic research to support effective interaction of the platform with victims;
- enabling a mixed registration system that allows victims, their representatives and members of the National System of Attention to Victims to interact with one another face-to-face and online, while maintaining the uniformity of services;
- prioritising qualitative analysis of the victims' narratives regarding the victimising fact and the description

of the harm suffered as complementary elements to the investigation, prosecution and punishment of crimes;

- structuring victims' accounts in an exhaustive manner, taking into consideration all possible victimising facts, all involved persons, as well as the organisations that are connected to the contextual circumstances of the violation;
- adopting the principle of good faith regarding victimised persons and not reducing the description of the harm suffered to the categories of quantifiable, classifiable or prosecutable, in accordance with the General Law for Victims;
- identifying the geographical areas of recidivism, in order to record the routes, natural resources, organisations and/or communities that may be in conflict;
- structuring the information related to organised crime activities that generate significant cash flows for the identification of unusual financial transactions;
- creating mechanisms that permit access to all information for its analysis and consultation, favouring the principle of maximum dissemination of public information, in order to generate solutions through the free flow of ideas between all actors of society and government, whilst ensuring the protection of personal data;
- considering technological architectures that allow different actors to expeditiously contribute to data collection and collation of information;
- extracting data concerning flows of people, especially migration and displacement flows, to draw connections between them and criminal behaviour; and
- keeping an inventory of the different social organisations present in the areas of the victimising facts.

Analysis of the facts and circumstances of victims' narratives, and descriptions of the harm suffered, are relevant sources of information for the judicial process of awarding reparations for damages. Moreover, such details, when methodically collected, allow us to understand the root causes of victimisation, from a social perspective.

2.2. Comprehensive Victims Support Model (MIAV)¹⁰

The role of Mexican authorities in providing a more secure future for its population is fundamental and yet its emphasis on statistical exercises must be improved and coupled with quantitative data, in order to develop more coherent policies. This includes expanding the scope to consider victims of human rights violations, taking into consideration a full account of the victims' suffering, in order to obtain, record and systematise valuable information during the registration and support process. While the statement of facts and the description of damage is a subjective assessment of what actually happened, it represents infor-

⁸ LGV, Art. 96.

⁹ LGV, Art. 88.

¹⁰ CEAV, "Modelo Integral de Atención a Víctimas" ('MIAV') (<http://www.legal-tools.org/doc/78ff12/>).

mation that could offer evidence on the recurrence of methods, patterns of victimisation, and possible intervention by economic or State agents. Such information is not currently recorded in the different national victims' databases, and yet victim statements can make a vital contribution to alternative analysis, development of innovative policies, and more in-depth studies.

For these reasons, CEAV is setting up a technological platform that would allow victims to obtain the required attention and exercise their rights without the immediate need to go to an office. This takes place in three phases: (i) identifying the persons and knowing their needs; (ii) making a brief assessment to prioritise and decide upon measures to respond to their needs; and (iii) determining whether it is possible for victims to be reintegrated into society, evaluating in essence their ability to rebuild their lives after their victimisation. It is expected that the platform will systematise the different phases of the MIAV. During the registration process, it will be possible to obtain information regarding the facts and circumstances of the individual before and after the victimising event, as well as the extent of the damage suffered by the individual, the local population, and geographic region. This process gives weight to the narrative of the harm suffered and thereby favours the factual circumstances and allocation of remedies over the classification of the crime and the legal process.

5. Documenting Existing Victim Records

The Registry is also responsible for receiving, consolidating and processing the documentary evidence concerning persons characterised as victims held by the authorities by the time the law entered into force. This is a complex task, given the disparity of resources and attention that each entity has allocated to its respective records.

In order to overcome these obstacles, there is an ongoing collaboration with the Case Matrix Network ('CMN'). Its 'Investigation Documentation System' ('I-DOC') tool¹¹ will speed up the reporting burden and will also permit the generation of quantitative metrics. In addition, I-DOC has several valuable features that enable the qualitative analysis of each case in order to identify patterns, reoffending actors and targeted populations.

3. Other Initiatives

Two other initiatives have been launched by the Mexican

authorities through the National Centre of Information of the Secretariat of the National Public Security System ('SESNSP').¹² It is a government-mandated body, recently created to co-ordinate the monitoring and evaluation of policies, programmes and strategies on public safety. In fulfilment of this duty, it is responsible for developing general statistical data on homicides, kidnappings and extortion, as well as the National Database of Lost or Missing Persons. Both initiatives have been criticised for over-simplified data categories, which limit their statistical value and accuracy.

3.1. Report on Victims of Homicide, Kidnapping and Extortion

The 'Report on Victims of Homicide, Kidnapping and Extortion' provides a monthly record of victims of such crimes, generated by local prosecutors on the basis of their preliminary investigations as well as the case files opened at the federal level. This is made operational through a series of co-operation agreements between the local state prosecutors and the Federal General Attorney's Office.

However, the *Report* is limited to only three types of violations, leaving aside other types of incidents as well as those situations not classified as crimes, as is the case of internal displacement.¹³ Moreover, the *Report* is restricted only to incidents acknowledged by the authorities following one or more complaints. This is problematic insofar as it necessitates that the complaint is recognised by the authorities and that proceedings are initiated. Information recounting the challenges of registering cases within local jurisdictions indicate that the numbers contained in these reports do not reflect such instances.

3.2. National Database of Lost or Missing Persons

SESNSP also manages the 'National Database of Lost or Missing Persons' ('RNPED')¹⁴ which registers all persons who have been registered by state and federal authorities as lost or missing, and includes cases of reported enforced disappearances. The RNPED enables searches by name, age and place of birth of missing persons, only after such information has been reported and recorded by a public authority.

A major challenge of this database is that its data fields do not distinguish between the different classifications, meaning that people reported as ordinarily lost or missing cannot be distinguished from those who have been reported or classified as disappeared. This has made it extremely

¹¹ See CILRAP's Case Matrix Network, 'National Victims' Registry (CEAV) adopts I-DOC', 31 March 2015 (<https://blog.casematrixnetwork.org/toolkits/eventsnews/news/national-victims-registry-ceav-adopts-i-doc/>) and CEAV, 'Firman CEAV y CMN convenio de colaboración para el uso y personalización del Sistema de Investigación y Documentación (I-DOC)', 26 March 2015 (<http://www.ceav.gob.mx/2015/03/firman-ceav-y-cmn-convenio-de-colaboracion-para-el-uso-y-personalizacion-del-sistema-de-investigacion-y-documentacion-i-doc/>).

¹² See SESNP web site for crime rates (<http://www.secretariadoejecutivo.gob.mx/index.php>).

¹³ Internal Displacement Monitoring Centre, "Mexico: Internal displacement in brief", December 2013 (<https://www.legal-tools.org/doc/63858d/>).

¹⁴ SESNSP, "Registro Nacional de Datos de Personas Extraviadas o Desaparecidas (RNPED)" (<http://www.secretariadoejecutivo.gob.mx/rnped/consulta-publica.php>).

difficult to gather accurate or reliable information on the scale of disappearances that may fall under the legal definitions of enforced disappearance and has generated mistrust.

Both of these databases provide official numbers of victims of certain crimes. However, despite the large volumes of journalistic and statistical information, there is little available qualitative or quantitative data on the context of these individual violations. It is also not possible to disaggregate information, restricting understanding of the concentration of violence in certain geographical regions of the country, or the criminal organisations involved.¹⁵ This hinders the development of policies that are responsive to the patterns of violence or able to address some of the wider causes of such violence. Furthermore, data on displacement, migration, terror, dispossession, silencing and/or “submission of the population”,¹⁶ attacks against journalists,¹⁷ and the relationship between the different security initiatives adopted with the increase in human rights violations and victimisation rates¹⁸ still remains unknown.

4. Conclusions

The initiatives to document the escalation of human rights violations are necessary to map, catalogue, provide restitution to and assist those who have been victimised since the beginning of the war on drugs. But in many instances they remain incomplete: statistical methods alone fail to capture the contextual information that is vital to inform policy and planning. There are many examples where the adopted methods are insufficient or flawed. These obstacles are to be expected: the national victims’ registry in Colombia has faced similar challenges, where it recorded factual violations of more than 7 million victims, but it failed to record necessary contextual information about the alleged violations. For example, while it recorded that close to 80% of those registered were victims of forced displace-

ment, it could not provide information able to demonstrate the causal and contextual factors and patterns of the displacements.

National mechanisms to document victims should first resolve the methodological flaws present in their current statistical methods. They should then take advantage of existing technology to enable the documentation of the victims of crimes and human rights violations to: (i) analyse the problem from a multi-dimensional perspective; (ii) retrieve unstructured high-value information to identify the circumstances of the issue; and (iii) produce adequate policies to prevent the causes and mitigate the effects of this phenomenon as well as to understand its consequences.

Victims’ testimonies – with their stories of suffering – contain high-value and often-ignored information that, when reliably recorded and catalogued, can enable a more coherent account of victimisation, including all the parties involved in the victimising events, including authorities (acting actively or passively), social organisations and economic agents. Capturing, keeping, structuring and analysing this data is a vital process that fully values this source of information, in keeping with the institutional mandates of the bodies responsible for victim documentation. Moreover, these records should become a public good: they can facilitate an understanding of the root causes of violence, while also contributing to reducing the risk of its recurrence by fostering a collective memory of these horror stories that the Mexican nation has faced for the past decade.

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¹⁵ Edgardo Buscaglia, “Vacíos del Poder en México” [Power Gaps in Mexico], Debate Querétaro, México 2013, pp. 26–27.

¹⁶ ‘Sometimiento a la Población’ occurs when criminal organisations take control of a community, forcing the population to work for their purposes amid conditions of semi-slavery.

¹⁷ Periodistas En Riesgo, “Mapa de Agresiones” (<https://www.periodistasenriesgo.com/>).

¹⁸ Valeria Espinosa and Donald B. Rubin, “Did the Military Interventions in the Mexican Drug War Increase Violence?”, *The American Statistician*, 2015, vol. 69 (<http://www.legal-tools.org/doc/5508c3/>).