

SURVIVING DEATH

**POLICE AND MILITARY TORTURE
OF WOMEN IN MEXICO**

Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

© Amnesty International 2016

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence.

<https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode>

For more information please visit the permissions page on our website: www.amnesty.org

Where material is attributed to a copyright owner other than Amnesty International this material is not subject to the Creative Commons licence.

First published in 2016

by Amnesty International Ltd

Peter Benenson House, 1 Easton Street

London WC1X 0DW, UK



Cover photo: Federal policemen arrest a woman on suspicion of possessing and distributing drugs during an anti-narcotics operation in Mexico City

© Daniel Aguilar / Reuters

Index: AMR 41/4237/2016

Original language: English

amnesty.org



CONTENTS

1. EXECUTIVE SUMMARY	4
Main recommendations	6
2. METHODOLOGY	7
Scope of Research	7
Government Barriers to Amnesty International’s Research	8
Acknowledgements	8
3. CONTEXT	10
The Scale of Torture and other-III-Treatment of Women	10
Who are the Women being Tortured in Mexico?	11
Discrimination in the Context of the so-called “War on Drugs”	13
4. GENDER-BASED TORTURE AND OTHER ILL-TREATMENT	15
Sexual Violence	15
Gender-Specific Forms of Torture and other ill-treatment	20
The consequences of torture and other ill-treatment	23
5. STATE FAILURES AND IMPUNITY	25
National and International Law and Standards	25
Investigation and Punishment of sexual violence and torture	26
The Right to Remedy	35
Reparations	38
6. OPPORTUNITIES FOR STATE ACTION	40
Legislative developments	
Mechanism to Follow up on Cases of Sexual Torture Against Women	
7. CONCLUSIONS AND RECOMMENDATIONS	42

1. EXECUTIVE SUMMARY

In April 2016, a video was leaked to the press showing police and military officials suffocating a woman with a plastic bag and interrogating her while she screamed. The question of what may have happened after the camera was turned off was left hanging in the air.

The video scandalized Mexican society and provoked an unprecedented public apology from the Minister of Defense and the National Security Commissioner. But an apology falls far short of the state's obligation to address the human rights crisis facing Mexico in which torture and ill-treatment are generalized throughout the country.

This report demonstrates that the Mexican police and armed forces routinely torture and ill-treat women, and that sexual violence is routine during arrest and interrogation. Severe beatings to the stomach, head and ears; threats of rape against women and their families; near-asphyxiation, electric shocks to the genitals; groping of breasts and pinching of nipples; rape with objects, fingers, firearms and the penis – these are just some of the forms of violence inflicted on women.

Amnesty International interviewed 100 women who had reported violence during arrest and found that all of them described some form of sexual harassment or psychological abuse, including misogynist and sexualized insults and threats. Some 72% reported sexual violence during arrest or in the hours that followed.

In Mexico's security strategy and so-called "war on drugs", women are often detained during group arrests and accused of being the girlfriends of a criminal and accomplices to criminal acts, without solid evidence to support the allegations. Police appear to be using them as easy targets for arrest to boost figures and show society that the government's security efforts are yielding results.

The women subjected to such violence are mostly young and from low income backgrounds. The multiple and intersecting discrimination these women face because of their gender, age and socio-economic situation increases their risk of being arbitrarily arrested and tortured or ill-treated. Many women arrested and imprisoned are single parents and face discrimination simply for not conforming to widely accepted gender expectations, such as having a male partner. Their socio-economic condition often limits their ability to access effective remedies. Sex workers, who are in many cases not only living in poverty but also often single parents, are also at particular risk of torture and ill-treatment during arrest or in detention.

When women are tortured or ill-treated they are specifically at risk of forms of violence that target them because of their gender, sexual orientation or gender identity. A number of women Amnesty International interviewed said they were bisexual or lesbian.

The response of the authorities to these human rights violations has been extremely disappointing. Torture and other ill-treatment continue and perpetrators enjoy almost absolute impunity, despite several mechanisms and institutions put in place by the Mexican state to address this. Of the thousands of reports of torture since 1991, only 15 have resulted in federal criminal convictions.

Despite the high number of complaints of sexual violence as torture or other ill-treatment by the armed forces, the Ministry of Defense informed Amnesty International that not a single soldier had been suspended from service for rape or sexual abuse from 2010 to 2015, and the Ministry of the Navy informed that only four marines had been suspended in the same time period. One marine who was convicted of sexual abuse was only temporarily suspended from the navy, potentially allowing him to be reintegrated into the navy once his prison term is over.

The Federal Attorney General's Office has so far failed to publish disaggregated data on torture victims. This has the effect of shrouding the problem in secrecy and preventing informed responses to address violence against women during arrest and detention. Hundreds of trainings on gender, violence and human rights within the police and armed forces appear to have had no discernible impact on reducing violations of women's human rights.

Not only have the authorities failed to publish comprehensive information on torture and ill-treatment of women, but they appear intent on keeping the issue hidden. In the course of Amnesty International's research for this report, a number of authorities put various barriers to prevent the organization from accessing a larger number of women interviewees.

Several institutional and structural failures continue to make impunity for torture and other ill-treatment the rule. Despite positive steps taken by the Federal Attorney General's Office to create new protocols for the investigation of torture and ill-treatment and appoint a Special Unit on the issue, it remained unable to present Amnesty International with information about criminal charges presented against suspects of torture in 2014 and 2015.

Amnesty International is aware of positive steps and examples of good practice implemented by the judiciary. However, in several cases documented by the organization, judges failed to follow up on torture complaints, unfairly placed the burden of proof on the survivor of torture and failed to exclude from trials evidence obtained under torture or ill-treatment.

The Mexican Congress is currently debating a long overdue draft General Law on Torture. While positive elements have been introduced, the law urgently needs to reinforce the principle that all evidence obtained under torture or other ill-treatment must be excluded from criminal trials, except in cases against alleged perpetrators. Finally, a new mechanism within the Ministry of the Interior to specifically address and combat cases of sexual violence as torture needs urgent strengthening in order to become in practice a robust taskforce to combat the torture and other ill-treatment of women. The new mechanism should involve all branches of the state, in order to effectively investigate and bring to justice those responsible and ensure adequate reparations for survivors.

MAIN RECOMMENDATIONS

To the President

- Order the prompt withdrawal of the armed forces from public security tasks, for which they are neither trained nor accountable.
- Publicly recognize the magnitude of the problem of torture and ill-treatment in Mexico, in particular the use of sexual violence against women, and send a clear message that these acts will no longer be tolerated.
- Make official medical forensic experts independent of the offices of the Attorneys General at federal and state level.

To the Ministry of the Interior

- Strengthen the existing “Mechanism to Follow up on Cases of Sexual Torture” convened by CONAVIM by allocating it with the resources necessary and ensuring that all relevant institutions collaborate with it.

To the Federal Attorney General's Office

- Accelerate the work of the Special Unit on Torture and urgently publish a registry of torture complaints, disaggregated by gender, age and nationality.
- Allow for better coordination with medical professionals who can rapidly be deployed in cases of allegations of sexual violence. Ensure any gynaecological attention obtains the fully informed consent of the woman and that she is able to choose how to be examined, as well as guaranteeing psychological accompaniment in such cases.

To the Congress

- Promptly adopt the General Law on Torture without delay, ensuring the following elements are legislated within it:
 - Torture and other ill treatment are criminalized in line with the Inter-American Convention to Prevent and Punish Torture.
 - All evidence obtained under torture or other ill-treatment is excluded from any judicial proceedings, except against a person accused of torture or other acts of ill-treatment as proof that the torture occurred. The law must ensure that when evidence was obtained as a result of torture or other ill-treatment, the judge excludes the relevant evidence at the outset (*in limine*) and initiates an inquiry within the trial in order to make a final determination. The prosecution must bear the burden of proving beyond reasonable doubt that the evidence was obtained lawfully.

2. METHODOLOGY

SCOPE OF RESEARCH

This report is the result of eight months of research by Amnesty International, including fieldwork interviews, document and casefile analysis. As part of this research Amnesty International carried out several interviews with various units of the Federal Attorney General's Office (Procuraduría General de la República, PGR) including the Deputy Attorney General on Human Rights, the new Special Unit for the Investigation of Torture in the Office of the Deputy Attorney General on Federal Crimes and the Division of Forensic Services of the PGR.

Within the Ministry of the Interior (Secretaría de Gobernación, SEGOB), Amnesty International held meetings with the National Security Commissioner (Comisionado Nacional de Seguridad, CNS), the Head of Internal Affairs of the Federal Police and the head of the National Commission on Violence against Women (Comisión Nacional para Prevenir y Erradicar la Violencia Contra las Mujeres, CONAVIM).

Amnesty International requested meetings with the Director of Human Rights of the Ministry of Defense (Secretaría de la Defensa Nacional, SEDENA), however the request was refused on the grounds that express legal permission from SEGOB was needed in order to speak to the Army. Amnesty International also requested a meeting with the Unit of Internal Affairs of the Navy (Secretaría de la Marina, SEMAR) on various occasions. Despite being repeatedly told not to contact the Navy as the Navy would contact the organization, Amnesty International never received a response to requests for a meeting.

Amnesty International also held numerous interviews with civil society organizations working on women's rights, torture and issues of gender-based violence, as well as reaching out to academics and other experts. Researchers also spoke to a number of officials in the justice system including public defence lawyers and court officials.

The bulk of research material came from 100 women. Researchers spent a total of 11 days in federal prisons and through a combination of in-depth interviews and written questionnaires gathered information from the women about the conditions of their arrest. The "snowballing method" was applied to access their stories; interviewees were asked about other people who may have lived through experiences similar to their own. The first set of interviewees was visited in a federal prison in Tepic, Nayarit state, in September 2015. On that occasion interviews were held with six women who alleged they had suffered torture and other ill-treatment. These women provided the names of other women they had known in prison who had lived through similar experiences. The women were not aware that they would be asked for the names of other women prior to the interviews. A second research visit took place in February 2016 to a newly opened women-only federal prison in Morelos state. 33 in-depth individual interviews were carried out, some of them with women previously interviewed in Tepic, and dozens of names of other women who reported ill-treatment or violence during arrest were provided.

In April 2016, Amnesty International researchers undertook a final research visit to the federal prison in Morelos state, speaking to 66 women. The women did not have prior notice of the visit. On this occasion interviewees completed written questionnaires about the conditions of their arrests and detentions prior to being imprisoned. The results of this study are thus drawn from a written questionnaire completed by 66 women and in-depth interviews lasting an average of two hours with 34 women. As such, the 100 responses and the statistics in this report include some incomplete information, mostly in terms of demographic data that had not been responded to in first round of interviews. Nevertheless, the main findings in terms of torture and ill-treatment are based on questions that were posed to all the women. The percentages of those who did not respond to questions have been included. As well as the 100 women interviewed and the statistics presented here based on those interviews, this report presents further details on 10 of the 100 cases where it was possible to obtain casefile information that included plausible evidence of torture or other ill-treatment.

Amnesty International is conscious that some women could have provided false information in their allegations of wrongful acts on the part of the authorities, including torture or other ill-treatment, in an attempt to get some benefit for their own legal defense. However, Amnesty International informed them before the questionnaires were applied that their names would not be revealed in our reporting, therefore our research would not provide any support in their legal defense. Amnesty International believes there was very little incentive – if at all – for the participant women to provide false information in their interviews.

The 10 emblematic cases which are identified by name and surname in our reporting were selected at a later stage, based on the casefiles obtained in a period of a few months. Amnesty International has corroborated the details of those cases in a thorough and independent manner. Those survivors have expressed their consent to be named publicly. Some of those interviewed asked that their identity be withheld for their security. Where pseudonyms are used in this report, they are indicated by an asterisk (*).

GOVERNMENT BARRIERS TO AMNESTY INTERNATIONAL'S RESEARCH

Unfortunately, from December 2015 to March 2016 the Minister of the Interior and the Under-Secretary for Human Rights of the Ministry of the Interior placed a number of obstacles in the way of this research. A number of written communications were passed between Amnesty International and public officials with each answer providing slightly different reasons for not allowing Amnesty International to see a larger number of women. In its communications with the Minister of Interior, Amnesty International made clear the aims of the study and its importance with regard to women's rights. The organization regrets that the Minister has shown a lack of cooperation on this important issue. If it had not been for the barriers placed from the Ministry of the Interior, further data on this issue could have been obtained.

On the final visit in April 2016 to Morelos Federal Prison 16, Amnesty International researchers, who were allowed to conduct the interviews in private, discovered that one of the guards had been hiding lying down in a kitchen area in the conference room where the interviews were conducted, which appeared to be a blatant attempt to intimidate the women interviewees, compromise the confidentiality of conversations and deter women from reporting torture and ill-treatment. To date no investigation has been initiated in relation to the guard's superiors, nor has the incident been referred to the Penitentiary System Oversight Committee, despite Amnesty International's written requests.

Amnesty International believes that the obstacles faced in carrying out this research are testament to the difficult climate for human rights observers and independent monitoring that prevails in Mexico. There are indeed public officials who strive to make progress in combatting torture and ill treatment, but unfortunately they appear to be outnumbered by those who would obstruct access to justice and information.

ACKNOWLEDGEMENTS

Amnesty International wishes to thank the Centre for Research and Economic Teaching (Centro de Investigación y Docencia Económicas, CIDE) whose advice regarding survey research methodologies was invaluable. In addition, we

acknowledge the many human rights organizations who are working to further the rights of women around the country and combat torture and other ill-treatment.

Amnesty International wishes to thank the National Security Commissioner and the staff of the National Security Commission for providing the assistance and accompaniment needed to carry out our research. We also wish to thank the Director and staff of the Federal Prison 16 in Morelos state for providing us with the facilities and logistics required to carry out the interviews.

Finally, we are grateful to the 100 women who accepted to talk to us and tells us their stories.

This report is dedicated to those women, who despite daunting pressures, recently spearheaded a national campaign to “break the silence” about the sexual violence as torture they have experienced.¹ Amnesty International hopes that its efforts in researching and publishing this report will spur the government to action on this issue.

¹ “Breaking the Silence” is a national campaign coordinated by survivors of sexual violence as torture. see <http://centroprodh.org.mx/rompiendoelsilencio/> for more information



Foto: "Funcionarios policiales arrestan a mujer en el norte de México"

3. CONTEXT

THE SCALE OF TORTURE AND OTHER ILL-TREATMENT OF WOMEN IN MEXICO

Almost two years since the publication of Amnesty International's report *Out of control: Torture and other ill-treatment in Mexico*, torture remains a serious problem in the country. In the 2015 report *Paper Promises, Daily Impunity*,² the organization found that complaints of torture filed before federal authorities had doubled between 2013 and 2014. In addition, in December 2015, the National Statistics Institute stated that torture and other ill-treatment was the second most commonly reported human rights violation after arbitrary detention presented before the state and national human rights ombudsperson in Mexico's 32 states.³ This data showed that in 2013 alone, more than 12,000 reports of torture and other ill-treatment were filed throughout the country, with 8,943 referring to possible male victims and 3,618 filed to women.⁴ This is the first time that data on torture reports has been broken down by gender, however it does not include criminal complaints filed before public prosecutors or attorney general's offices.

For more than two years, despite requests, Amnesty International has been unable to obtain official information and disaggregated data by gender on the number of complaints of torture and other ill-treatment at a federal level. In spite of the creation of a new Specialized Unit on Torture within the PGR⁵ in recent months, the authorities are still unable to confirm what the gender, age or nationality is of the more than 2,400 complaints lodged of torture at a federal level by the end of 2014, the date of the last published statistics.⁶ This, despite an internal process that began two years ago to compile federal data on torture.⁷ Notwithstanding this lack of clarity in government data, national and international organizations and other human rights mechanisms have documented how torture and other ill-treatment in Mexico continue to be widespread in a context of almost total impunity.⁸

² Amnesty International, *Paper promises, daily impunity: Mexico's torture epidemic continues* (Index: AMR 41/2676/2015).

³ Instituto Nacional de Estadística y Geografía, *Recopilación de información de los organismos públicos de protección y defensa de los derechos humanos en México*, available at: <http://www.inegi.org.mx/est/contenidos/proyectos/registros/default.aspx>

⁴ Ibid

⁵ Diario Oficial de la Federación, Acuerdo A/101/15 por el que se crea la Unidad Especializada en Investigación del Delito de Tortura y se establecen sus atribuciones, 27 de octubre de 2015

⁶ Figures as of the end of 2014, as published in Amnesty International, *Paper promises, Daily Impunity: Mexico's torture epidemic continues*, October 2015 page 5.

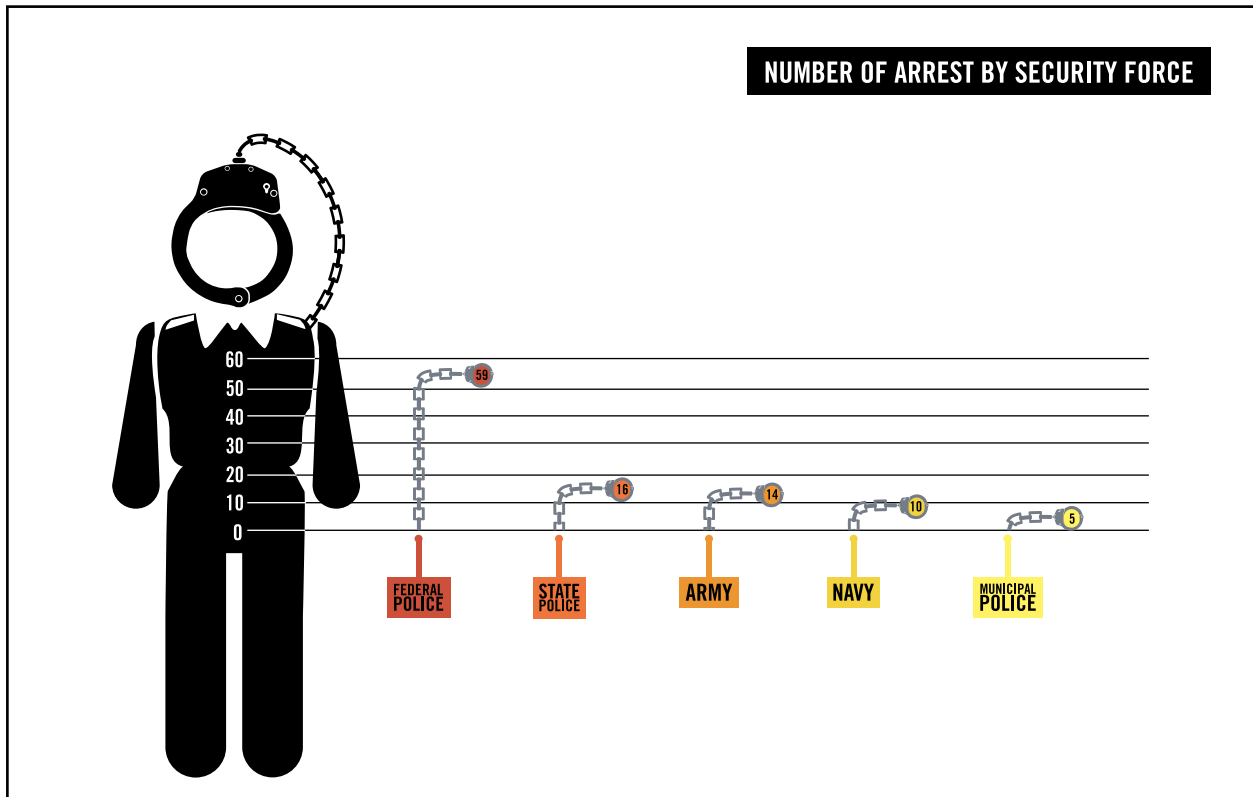
⁷ Meeting with the Deputy Attorney General on Human Rights, PGR, 9 March 2015. In this meeting Amnesty International was informed that the PGR had commenced a process of ordering their data on torture complaints in February 2014, which involved a process of aligning the databases and information systems that had put been in place.

⁸ See reports by: Inter-American Commission on Human Rights, *The Human Rights Situation in Mexico*, 31 December 2015, (OEA/Ser.L/V/II) para 11; and Report of the United Nations Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, Juan E. Méndez, Mission to Mexico, A/HRC/28/68/Add.3, December 29, 2014.

For a number of years, the response of the Mexican authorities to drug cartels and organized crime has relied on the armed forces to undertake tasks relating to public security and adopting militarized law enforcement techniques. Organized crime and drug crime are federal offences in Mexico and so federal agents, such as the Federal Police and the armed forces (the Army and Navy are both deployed in public security operations in Mexico), are usually involved in these arrests.

Torture and other ill-treatment by members of the security forces are frequently reported during arrest and interrogation. This report uses “arrest” to denote the hours spent in police custody before being handed over to a public prosecutor.⁹ Torture and ill-treatment often happens in this period of arrest, although coercion and intimidation may continue during detention with the public prosecutor. Victims of torture and other ill-treatment are often forced to “confess” to being part of a drug cartel or involved in other crimes such as kidnapping or drug trafficking. At times, security forces torture detainees and plant evidence on them in order to obtain information about drug cartels or to incriminate other detainees. The security forces often present detainees before the media only a matter of hours after their arrest, showing their faces to camera and using their full name. This breaches their right to be presumed innocent until proven guilty and their right to honour and reputation.¹⁰ On many occasions, these arrests are announced by high-level public officials such as the National Security Commissioner.

Of the 100 arrests that Amnesty International examined, the Federal Police were responsible for most of the arrests, followed by state-level police, the Army and the Navy.¹¹ This is likely due to the fact that there are far more Federal Police on the streets than Navy and Army.¹² It is common for federal security forces to coordinate operatives on organized crime with the auxiliary support of state of municipal agents.



⁹ UN Human Rights Committee, General Comment 35 defines “arrest” and “detention” , 16 December 2014, CCPR/C/GC/35

¹⁰ Report of the UN Sub-Committee on Torture regarding its visit to Mexico, 2009

¹¹ According to the Third Annual Report of the Administration of President Enrique Peña Nieto (Tercer Informe de Gobierno), from September 2014 to July 2015, 21,019 soldiers from the Army were employed in operatives against violence; and 3,721 marines from the Navy. As refers to the Federal Police, according to the same report, as at July 2015, the Federal Police had a standing force of 37,951.

¹² *Ibid.*

WHO ARE THE WOMEN BEING TORTURED OR OTHERWISE ILL-TREATED IN MEXICO?

The women whose experiences are detailed in this report represent a snapshot of a wider issue, which involves the use of torture and other ill-treatment to incriminate and imprison people for serious offences in the context of the so called “war on drugs.” The allegations of torture or other ill-treatment reported to Amnesty International occurred in all different parts of the country, in at least 19 states. 82% of the women interviewed had been arrested from 2011 onwards.



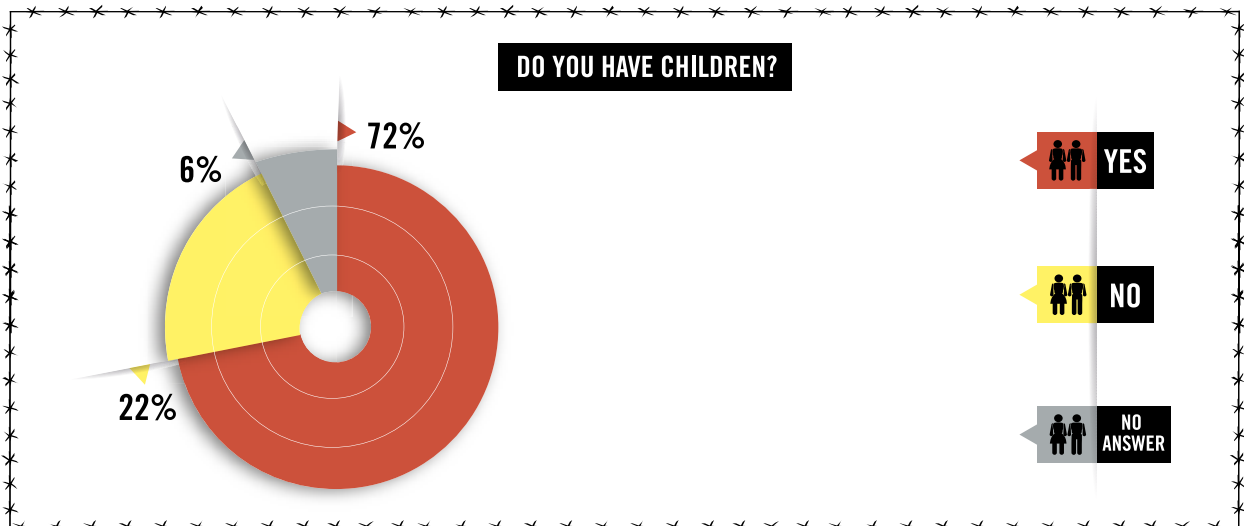
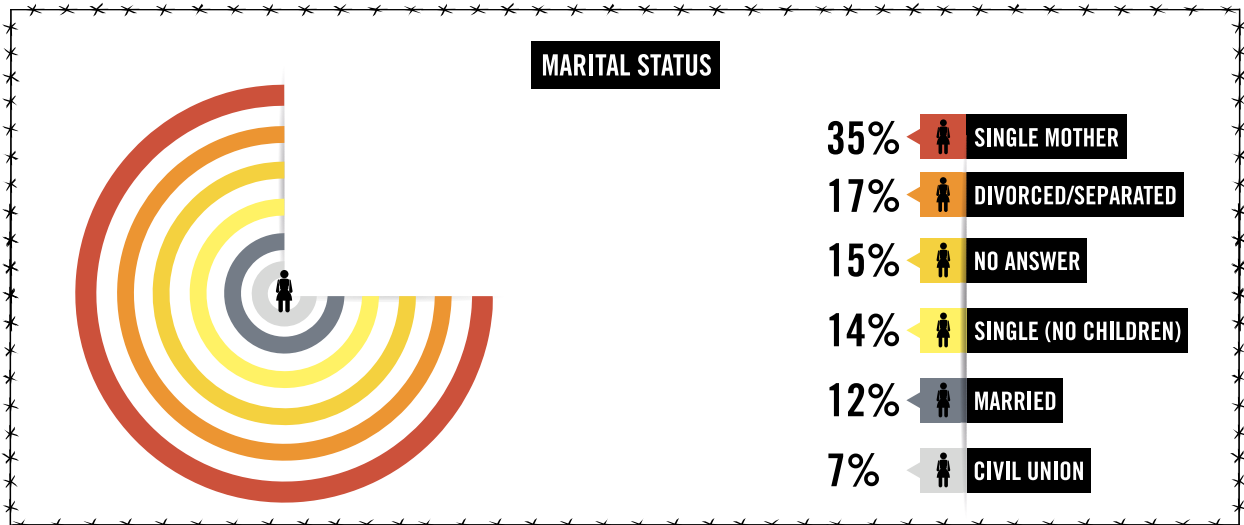
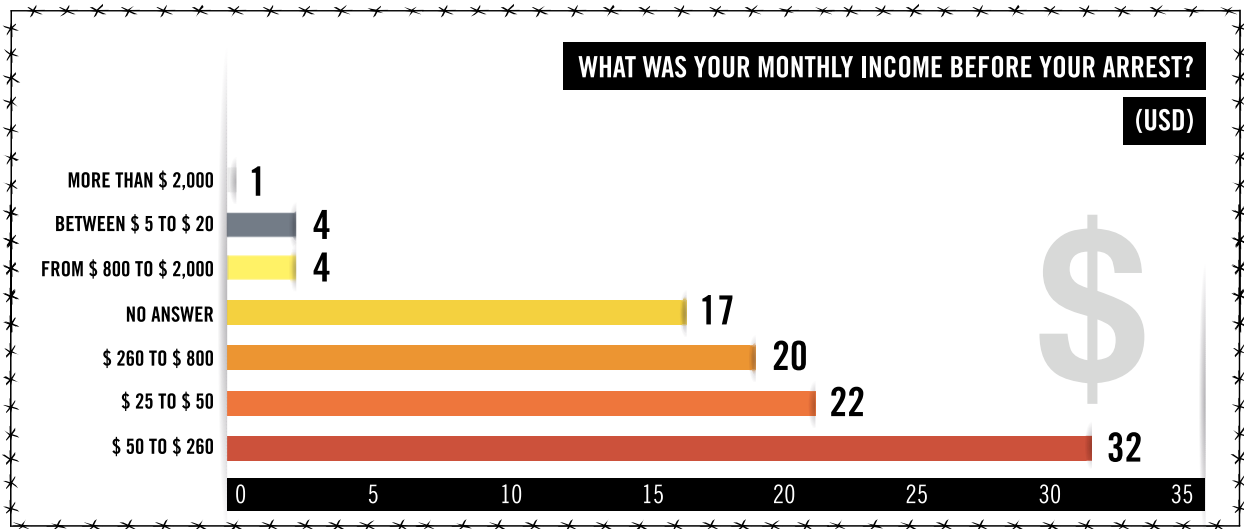
According to official data, women make up a just over 5% of the of the national prison population. Of the federal prison population, women make up almost 7%, with 3,285 women in prison accused of federal crimes, as of figures updated in January 2016.¹³ The vast majority of women detained in federal prisons are first time offenders, mostly imprisoned for drug-related crimes.

There is evidence to suggest that torture and other ill-treatment is used frequently against people accused of high-profile crimes that fall within the public security strategy of the “war on drugs” and organized crime. Of the 100 women interviewed by Amnesty International, 33% had been accused of being part of organized crime groups, 23% had been accused of narcotics crimes, 22% had been accused of kidnapping and 14% with illegal possession of firearms. Many of the women interviewed were often accused of a number of these crimes.

The federal prison population, both male and female, is largely made up by people from low income backgrounds. Data on the federal prison system shows that 60% of women in prison did not complete high school.¹⁴ Many of the women interviewed by Amnesty International had low levels of education.

¹³ Taking all prisons at state and federal level into account, there were 13,160 women in prison and 233,841 men in prison according to latest figures published in January 2016. Comisión Nacional de Seguridad, Cuaderno mensual de Información Estadística Penitenciaria Nacional, enero de 2016, available at: http://www.cns.gob.mx/portaWebApp/appmanager/portaWebApp?_nfpb=true&_pageLabel=portals_portal_page_m2p1p2&content_id=810211&folderNode=810277&folderNode1=810281

¹⁴ CIDE, Resultados de la Primera Encuesta realizada a Población Interna en Centros Federales de Readaptación Social 2012



Of the cases Amnesty International documented for this report, most women earned between 1,000 and 5,000 pesos a month (approximately US\$55 to US\$270) with some earning much less. This places them within the lowest socioeconomic strata of Mexican society.¹⁵ The average age of the women interviewed was 27 at the time of the arrest; 72 of the women had children; most of the women who responded were single parents.

DISCRIMINATION IN THE CONTEXT OF THE SO-CALLED “WAR ON DRUGS”

The fact that most of the women Amnesty International interviewed had low-incomes, limited education and were single parents may not be a coincidence. In the context of the so-called “war on drugs” in Mexico, women are seen as the weakest link in the trafficking chain by the authorities. They are seen as an easy target for arrest, as drug cartels often recruit women from vulnerable backgrounds to carry out the lowest and most dangerous tasks for the gang, and they are considered expendable if arrested.¹⁶

Young, poorly educated and low-paid women are at particular risk of being picked up by the police or military. The many layers of discrimination such women face intersect in a way that further marginalizes them and increases the risks of abuse and human rights violations. Gender stereotypes play a specific role in the torture or other ill-treatment of women and gender non-conforming individuals regarding the specific practices used to inflict pain and suffering on them and to ensure impunity for the abuser.¹⁷ As explained by the United Nations Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment (UN Special Rapporteur on Torture), intersectional identities can result in people experiencing torture and other ill-treatment in distinct ways.¹⁸

In a context where social constructs are based on a predominantly patriarchal culture, women who are single parents face particular discrimination simply because they do not have a male partner. Women in Mexico are expected to have a male partner; if they do not, this is seen as suspicious. When women who are lone parents are arrested and imprisoned, it is the extended family that has to take on responsibility for the children. This additional burden on the family makes it more difficult for relatives to help the accused women.

A number of the children had witnessed the violent arrest of their mothers and seen them being taken away by the authorities. Some women told us that their children were even grabbed along with them during the raid on their house and taken with them to police stations or prosecutors’ offices before being let go.

Sex workers, many of whom are lone parents and of low incomes, face additional risks, as they are more likely to be arrested. Even though sex work is decriminalized in most states of Mexico, sex workers face discrimination as they are assumed to be criminals. A number of women Amnesty International interviewed were employed in sex work.

¹⁵ See figures from National Institute of Statistics and Geography (INEGI), as at 2014: Encuesta Nacional de Ingresos y Gastos de los Hogares (ENIGH), available at: <http://www.inegi.org.mx/est/contenidos/Proyectos/encuestas/hogares/regulares/enigh/>

¹⁶ Corina Giacomello, “Mujeres, delitos de drogas y sistemas penitenciarios en América Latina”. International Drug Policy Consortium (IDPC), Londres, octubre 2013

¹⁷ UN Special Special Rapporteur on torture, Gender perspectives on torture and other cruel, inhuman and degrading treatment or punishment, 5 January 2016 A/HRC/31/57 para. 9.

¹⁸ *ibid*



FERNANDA INDIGO*

LIVING MULTIPLE DISCRIMINATION:
SEX WORKER TAKEN AS THE GIRLFRIEND OF A CRIMINAL

“You’re going to jail coz you’re a stupid fucking whore”

Federal policeman’s words to Fernanda Indigo*, a single parent and sex worker arrested in 2014

Fernanda*, a 22-year-old single mother of two, worked in a bar in a down-at-heel neighbourhood in Valle de Chalco in Mexico state, where she met clients for sex work. Fernanda told Amnesty International that on 21 March 2014, at about 3am or 4am, when she was at the house of one of her clients, over 20 undercover Federal Police officers dressed in black with assault rifles stormed into the house. They ripped off Fernanda’s clothes, groping her breasts and buttocks and yelling threats at her. She told Amnesty International that the officers took her to a house where she could hear cries of other people being tortured. One police officer screamed at her: “You are going to jail coz you’re a stupid fucking whore.”

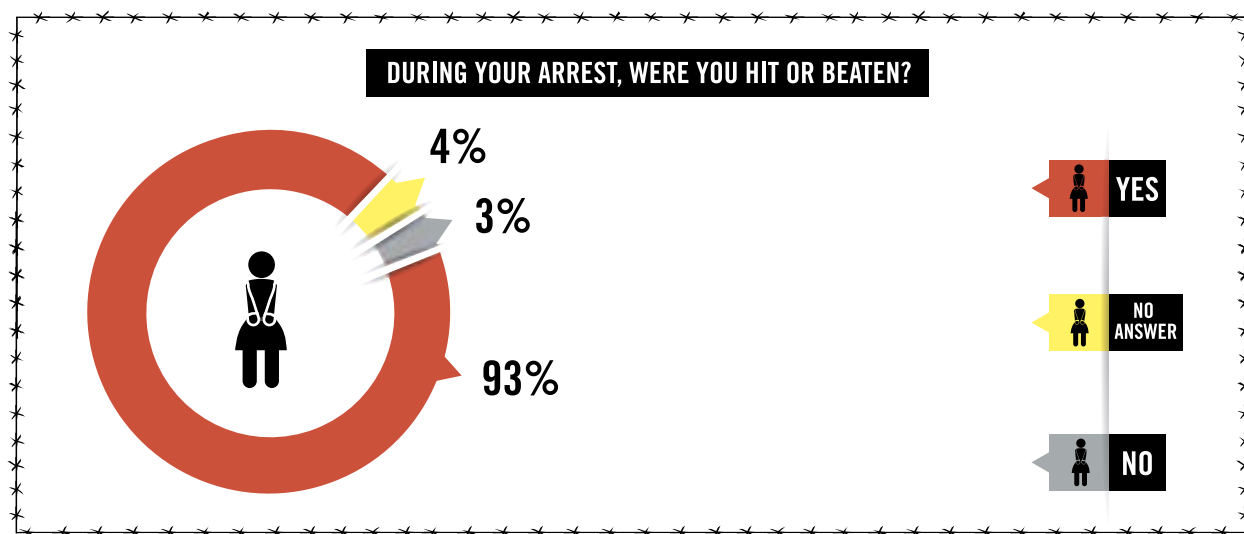
After extended beatings and electric shocks, Fernanda was taken to the PGR where she was presented before the media in a press conference as a member of an organized criminal gang. The accusation against her came from one of the other people who was also arrested at the time.

4. GENDER-BASED TORTURE AND OTHER ILL-TREATMENT

COMMON METHODS USED BY POLICE AND ARMED FORCES

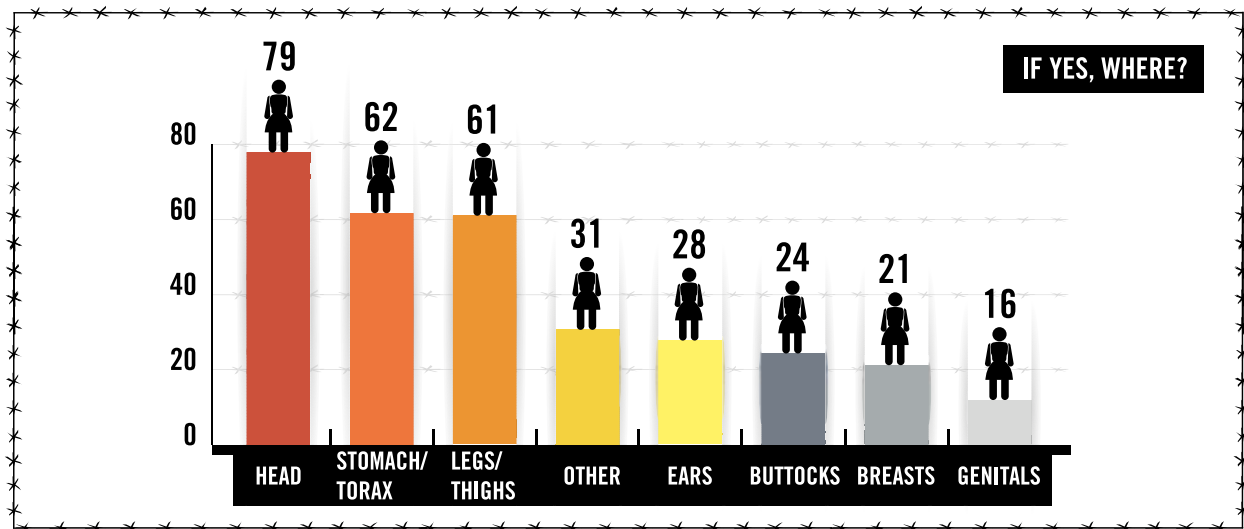
The type of violence inflicted on women during arrest has two key characteristics. Firstly, at times there is an attempt to conceal the torture or other ill-treatment. Some methods used are intended to leave no mark or visible trace on the body, for example near-suffocation with a plastic bag, electric shocks or beatings on certain parts of the body. 41 out of 100 women told Amnesty International that they had been near-asphyxiated with a plastic bag or similar object.

Beatings are also a common part of torture and other ill-treatment. According to the women interviewed, the most common areas of the body where they were hit were the head, stomach or torax area, legs and ears. The face is deliberately excluded from the areas where detainees are beaten, so as to avoid obvious injuries. While head injuries can bleed, they are often easy to conceal.¹⁹ Internal injuries in the ears are also difficult to detect and the torax area is often covered up and bleeds little.²⁰



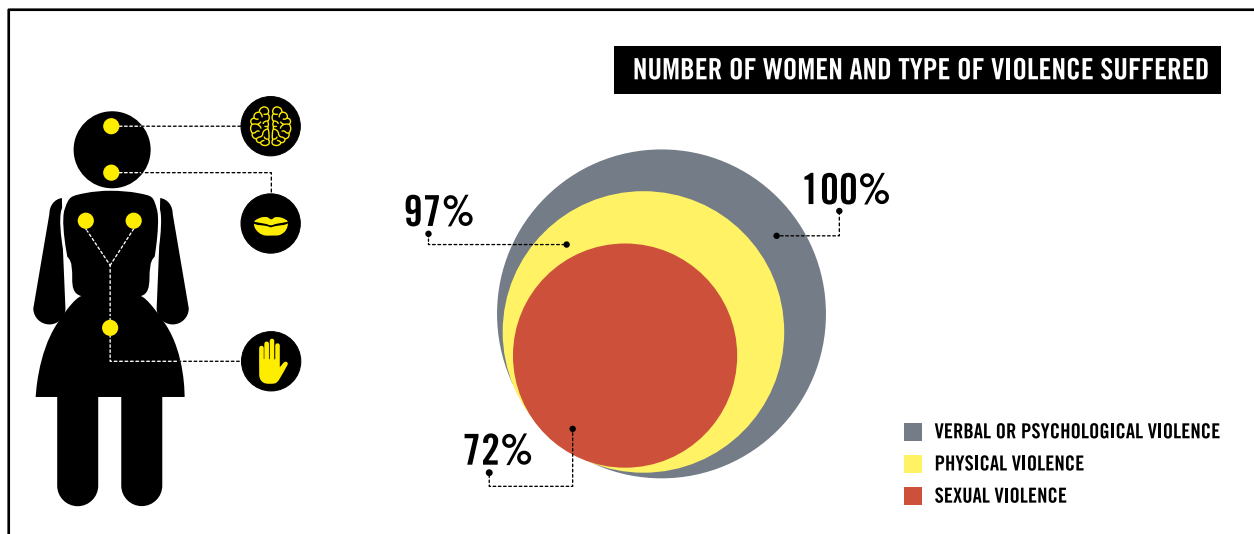
¹⁹ Amnesty International consulted a number of independent doctors who are experts on torture in relation to these observations.

²⁰ Ibid.



SEXUAL VIOLENCE

The second characteristic is the highly sexual nature of the violence used during arrests of women. Sexual harassment and psychological abuse includes insults focused on their sex, as well as their real or perceived sexual orientation and gender identity, which on many occasions also include threats of rape against them or their family. Sexual violence usually includes groping of breasts, buttocks and genitals, beatings in the genital area, electric shocks to breasts or genitals, and rape with fingers, objects or penis. According to the United Nations Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment (Istanbul Protocol): “Verbal sexual threats, abuse and mocking are also part of sexual torture, as they enhance the humiliation and its degrading aspects, all part and parcel of the procedure. The groping of women is traumatic in all cases and is considered to be torture.”²¹



²¹ Office of the United Nations High Commissioner for Human Rights, Istanbul Protocol, 2004, paragraph 215.



MÓNICA ESPARZA CASTRO

GANG RAPED BY POLICE
WHILE SOLDIERS LOOKED ON

Mónica, then aged 26, was driving with her husband and brother on 12 February 2013 when they were stopped by municipal police from Torreón, Coahuila state. Mónica described to Amnesty International the events that followed. The officers showed no warrant, but took the three to a warehouse behind the offices of the Municipal Security Department in Torreón. Monica at first stayed outside in a police van. An official arrived and when he saw that Monica was there, he got very angry with the police woman who had brought her in and said: “You’re an idiot! Why did you bring her in?” He came back a few minutes later and took Mónica into the warehouse, threatening to “cut her into little pieces”.

According to Monica, when she entered he said to her “welcome to the party” and she saw her brother and husband sitting naked with blood streaming down their bodies. The police officers grabbed Mónica and began to simulate drowning by plunging her head into a bucket on repeated occasions. They then suffocated her with plastic bags, beat her buttocks with a wooden board, and dragged her along the floor by her hair. They continued to ask her questions that Mónica could not answer. Mónica witnessed her husband being beaten with metal studded whips and the skin on his leg being peeled off with a knife.

The municipal police applied electric shocks to Mónica’s genitals and legs. Following this, a representative of the Torreón security department grabbed Monica and started brusquely kissing her and biting her face and neck and then raped her in front of her husband and brother. Six police officers then raped her one after the other, then masturbated in her face and forced her to give them oral sex and swallow the sperm. While Mónica was being brutally raped, uniformed Army officers looked on.

The police then took the three of them to the offices of the PGR in Torreón. On the way, Monica’s husband died in her arms as a result of the torture. After more than twelve hours in police custody, Mónica was later flown to the offices of the Deputy Attorney General on Organized Crime (SEIDO) in Mexico City where she was forced to sign a “confession” saying she was part of the Zeta drug cartel. She then fainted and was rushed to hospital. In August 2014, forensic experts from the National Human Rights Commission (Comisión Nacional de los Derechos Humanos, CNDH) confirmed that Mónica had been raped and her husband had been arbitrarily executed death resulting from his torture.²² In April 2016, the CNDH issued a recommendation calling for a criminal investigation into the case.

Mónica is in prison awaiting the outcome of her trial on charges of involvement in organized crime. Two of her four young children are in care as her family is unable to cover cost of caring for them.

²² Comisión Nacional de los Derechos Humanos, RECOMENDACIÓN No. 15 /2016 SOBRE EL CASO DE RETENCIÓN ILEGAL EN AGRAVIO DE V1, V2 Y V3, TORTURA Y VIOLENCIA SEXUAL EN AGRAVIO DE V1, TORTURA EN AGRAVIO DE V2 Y EJECUCIÓN ARBITRARIA EN AGRAVIO DE V3, EN TORREÓN, COAHUILA. 13 de abril de 2016.

Of the cases examined by Amnesty International, all women detailed some sort of violence, ranging from sexual harassment and psychological abuse to sexual violence. 72 women interviewed by the organization said they were subjected to sexual violence, ranging from groping of their breasts or buttocks to rape.

Although information is lacking regarding the sexual violence inflicted on women in comparison to men, studies have shown that women have reported almost four times more use of sexual violence than men.²³ While there may be gender specific issues in the way men do or do not speak out about sexual violence, the available data, as well as Amnesty International's research, suggests that methods of torture are differentiated according to the gender, and real or perceived sexual orientation or identity of the survivor, with women being specifically targeted in ways that inflict gender specific suffering.

RAPE AS TORTURE

Rape was used by police at all levels, municipal, state and federal, as well as by the Army and Navy. There were some differences in the frequency of rape reported, depending on the perpetrators. Women reported the highest rates of rape in arrests carried out by the Navy. Although on a whole the Navy carries out less arrests than the Federal Police, it is extremely concerning to note that of the 10 arrests carried out by the Navy in the data Amnesty International received, 8 included rape. Of all the other agencies besides the Federal Police, rape was used in at least half of the arrests carried out.

Rape is defined as any form of coercive penetration in the anus or vagina using any object, or the penetration using the sexual organ of the perpetrator in any other part of the body.



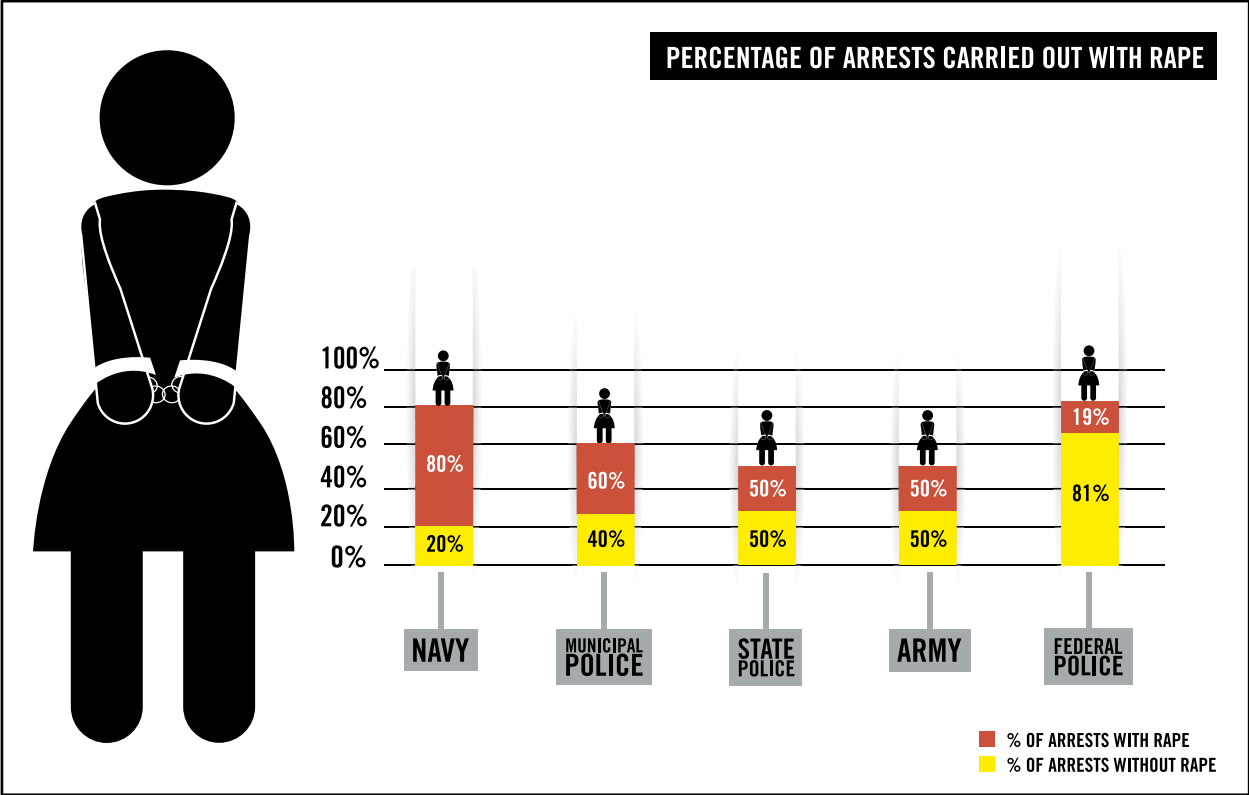
33 of the **100**

WOMEN INTERVIEWED REPORTED THAT THEY HAD BEEN RAPED DURING ARREST.²⁴

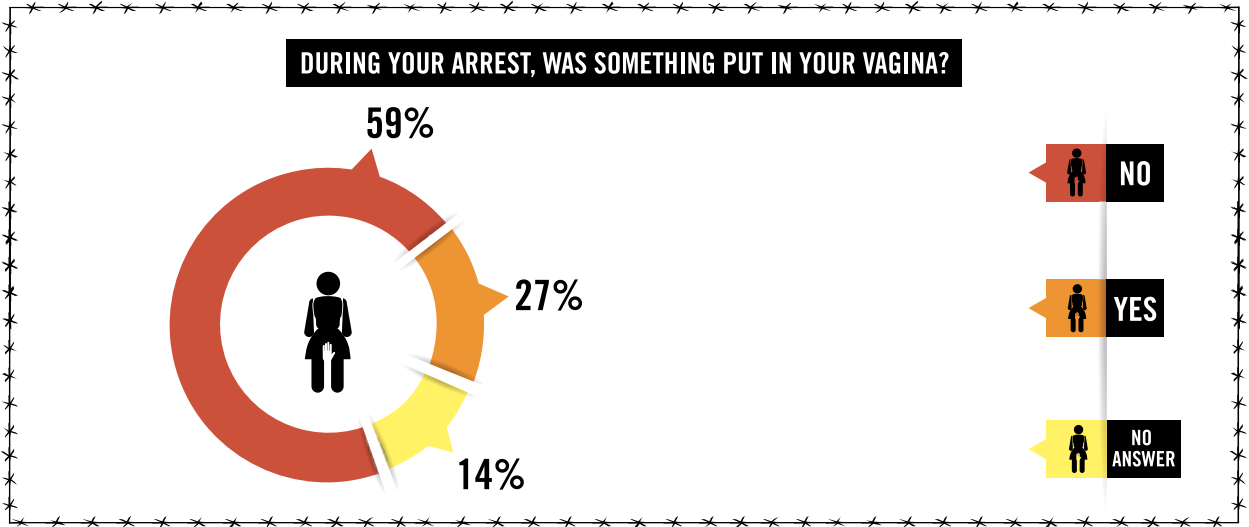
The sophistication of the methods used to inflict violence differed among cases. For example, Amnesty International received reports from some women who had been raped by Navy personnel that sometimes perpetrators used gloved fingers so as to not leave any biological trace, others reported electric shocks to the genitals. The use of the penis was reported in some cases, but these were not the majority. 27 women were subjected to vaginal rape during their arrests.

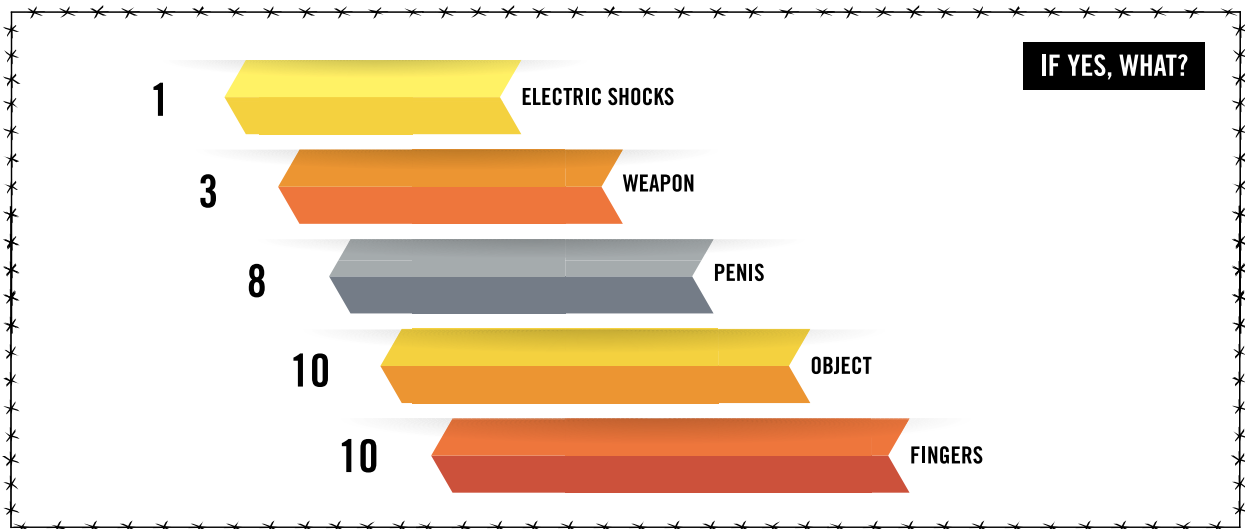
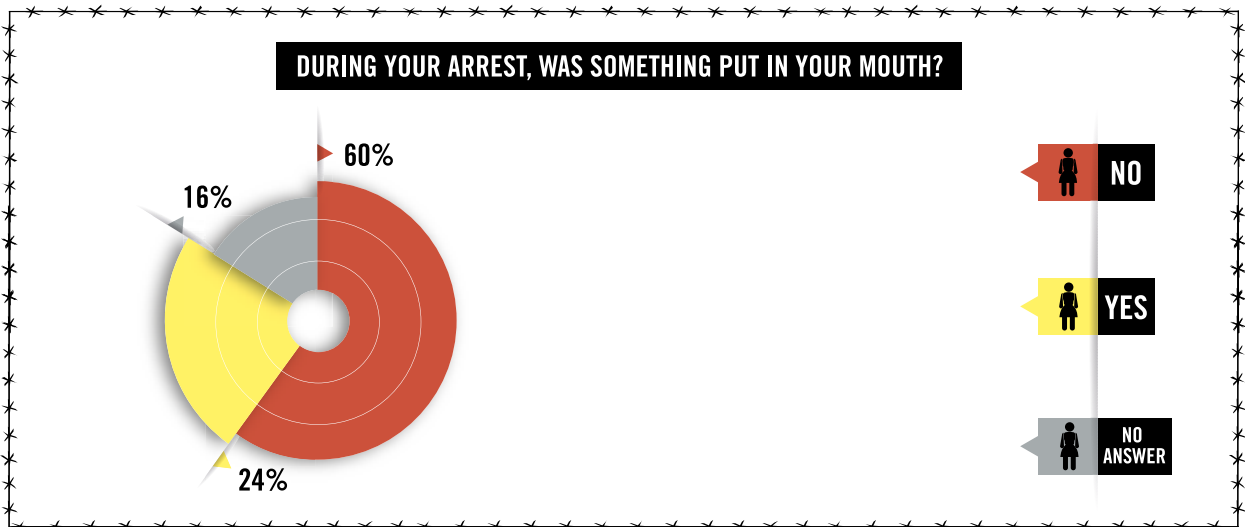
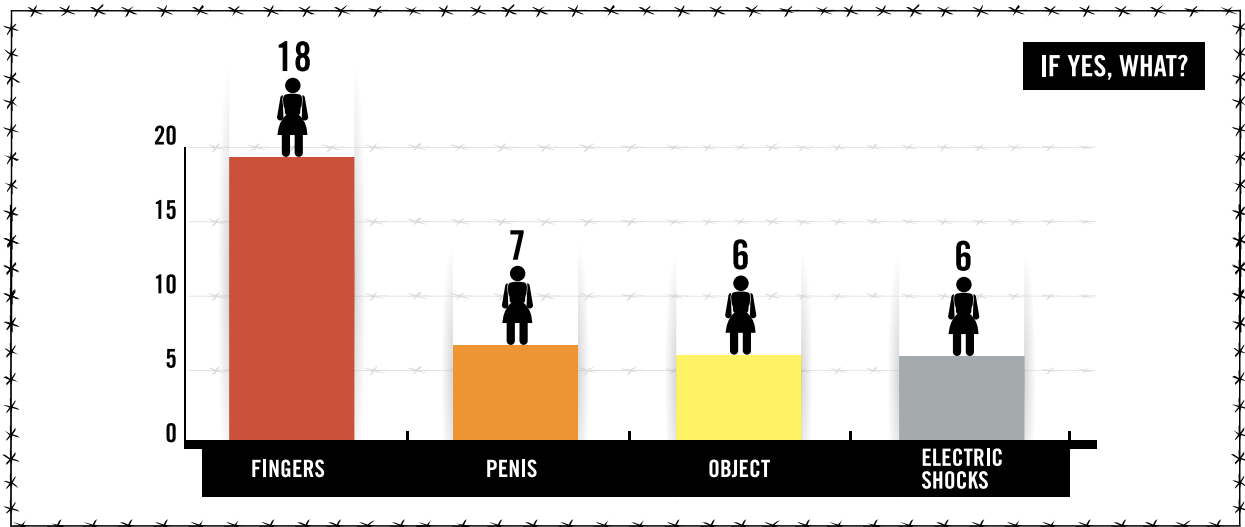
²³ In a 2012 survey carried out by CIDE on federal prisons in Mexico, 27% of women who suffered torture reported sexual violence, while only 7% of men reported this. Notwithstanding these responses, Amnesty International's research in this current report shows that asking interviewees about whether they experienced "sexual violence" may not result in the responses that show the full scale of the problem. CIDE, op cit, page 63.

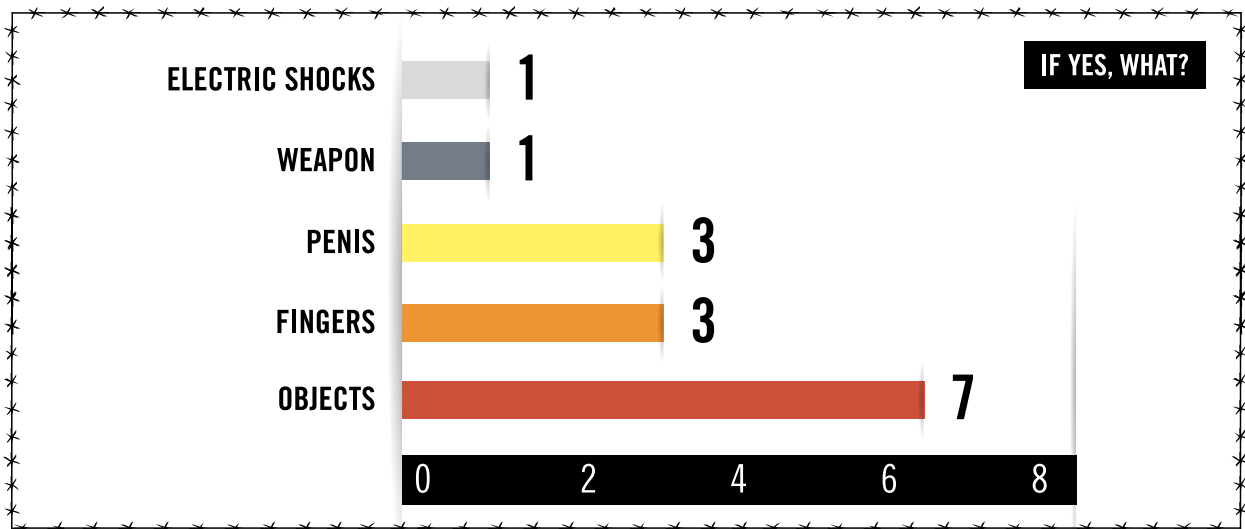
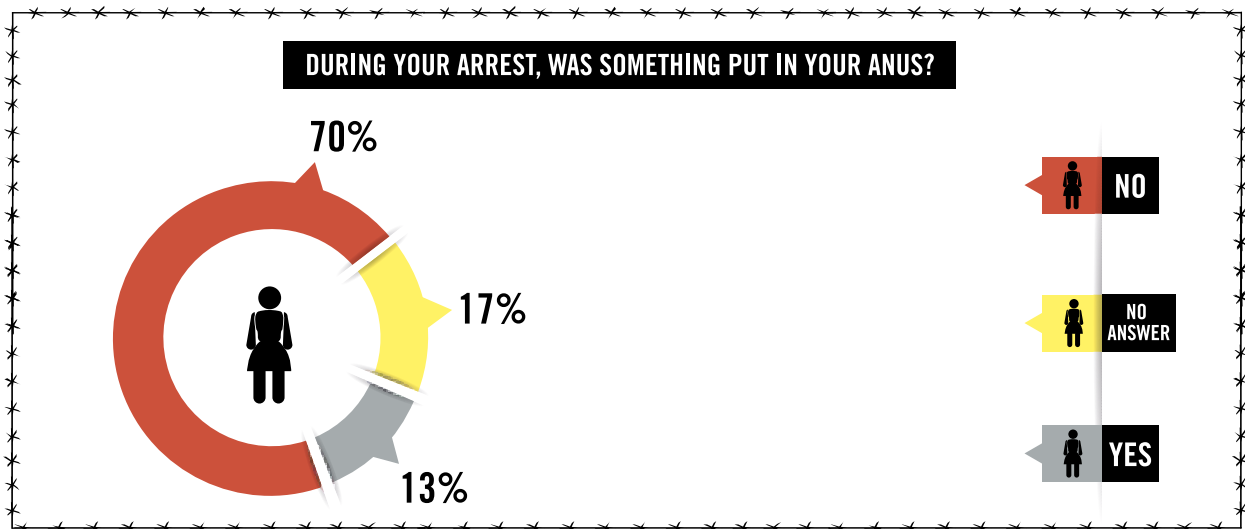
²⁴ International Criminal Court definition of rape contained in the Elements of Crime of the ICC (Ref: ICC Elements of Crimes, Article 8(2) (b) (xxii)-1.): The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or the perpetrator with a sexual organ or of the anal or genital opening of the victim with any object or any other part of the body. The invasion was committed by force, or by the threat of force or coercion, such as that was caused by fear of violence, duress, detention, psychological oppression, or abuse of power, against such person or another person, or by taking advantage of a coercive environment or the invasion was committed against a person incapable of giving genuine consent.



13 women stated that they had been subjected to anal rape. However, many women preferred not to respond to this question, perhaps a reflection of the weighted social stigma and taboos linked to this issue. The most common form of anal rape was using an object. In addition, 24 women stated they had something forced into their mouth, and in eight of these cases this would constitute rape, involving a penis.



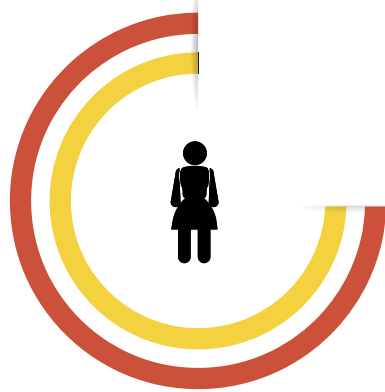




THE NORMALIZATION OF SEXUAL VIOLENCE

Women's attitudes towards sexual violence suggest that it is so prevalent as to be almost a routine part of life. Interviews were designed to understand the type of violence that women experienced. Women were asked about these issues in a number of ways. One of the questions asked them to "indicate the type of treatment you received during your arrest". Women were asked to indicate whether they were arrested without violence or whether their arrest was accompanied by verbal, physical or sexual violence. Only 35 women responded that they had suffered some sort of sexual violence. However, when asked about specific types of sexual violence, such as groping, touching of their bodies, beatings or electric shocks on their genitals or breasts, 72 women responded affirmatively. In the use of electric shocks, the first targets were genitals (which can constitute rape) and breasts. In addition, approximately 80 women were the targets of misogynistic insults. This speaks to the way that the normalization of sexual violence within society has produced responses from women that did not immediately identify the touching or beating of their private parts as sexual violence.

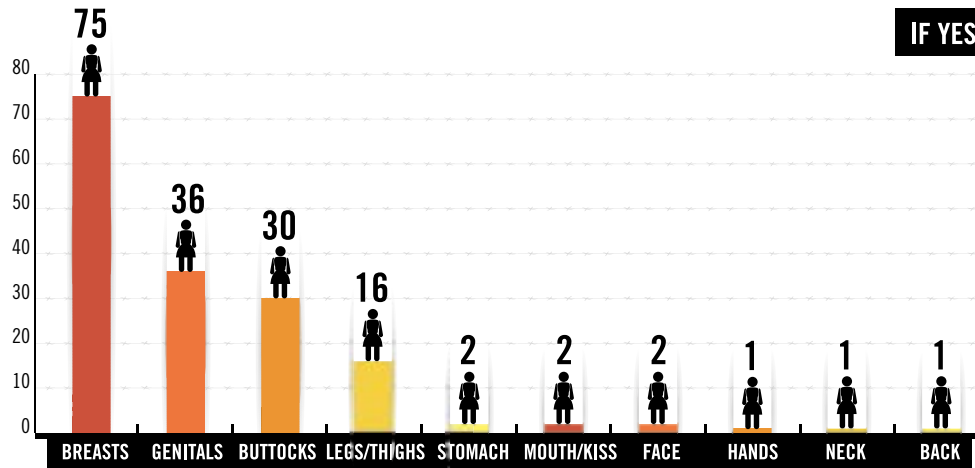
DURING YOUR ARREST, WAS ANY PART OF YOUR BODY GROPED?



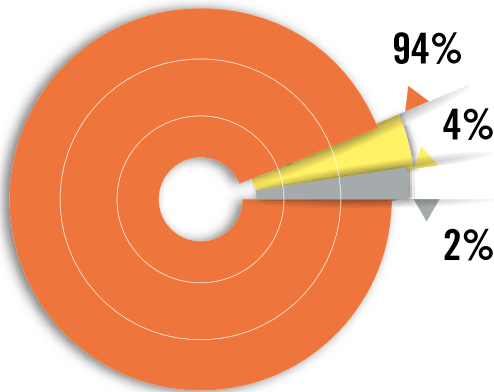
72%  **YES**

28%  **NO**

IF YES, WHERE?



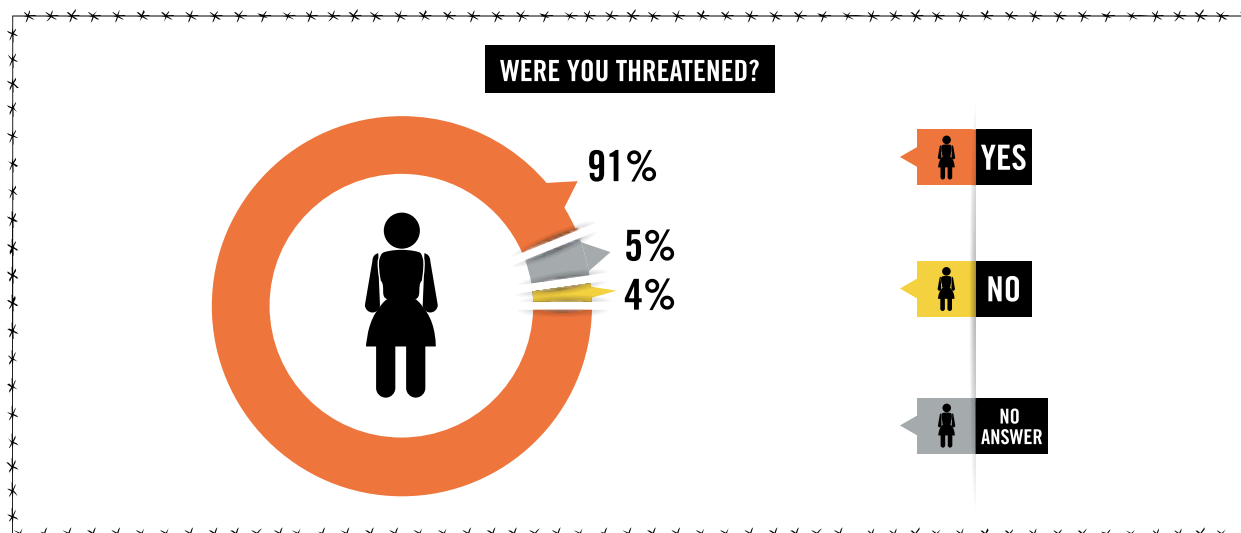
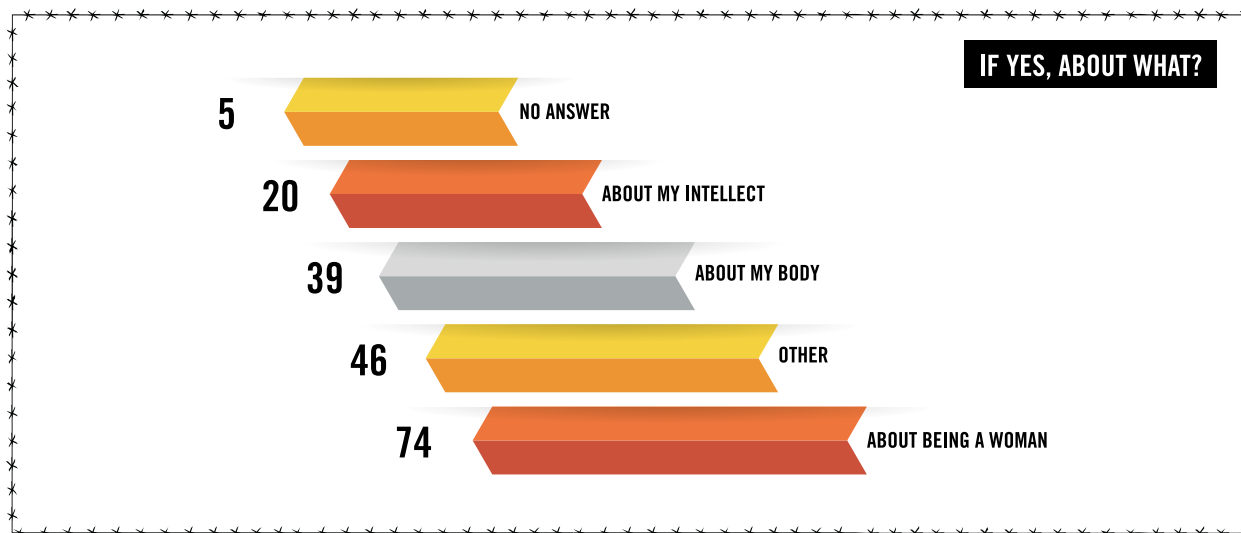
DID YOU RECEIVE INSULTS DURING YOUR ARREST?



 **YES**

 **NO**

 **NO ANSWER**

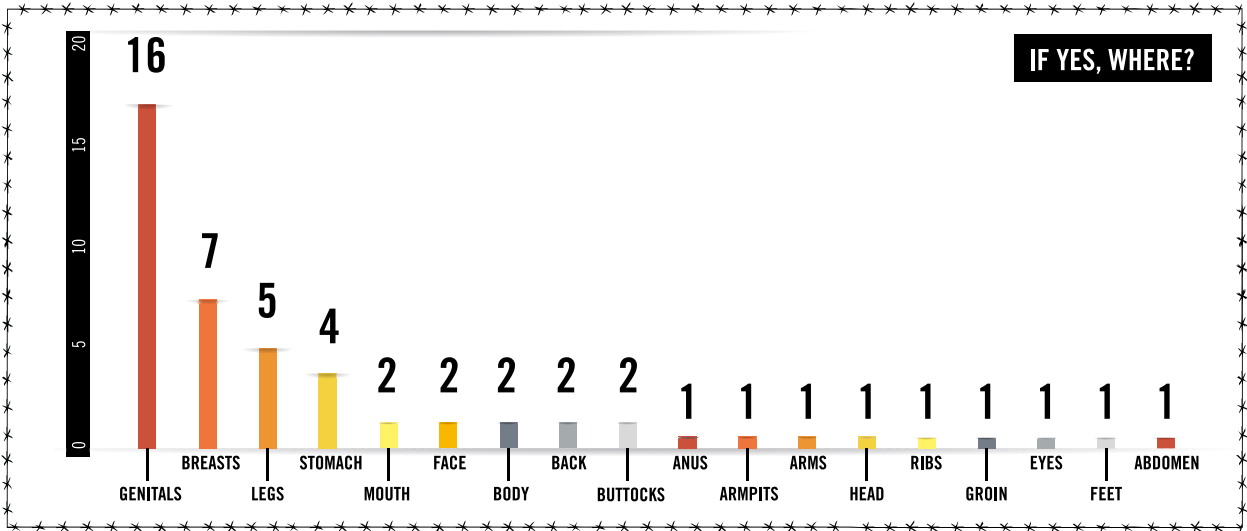
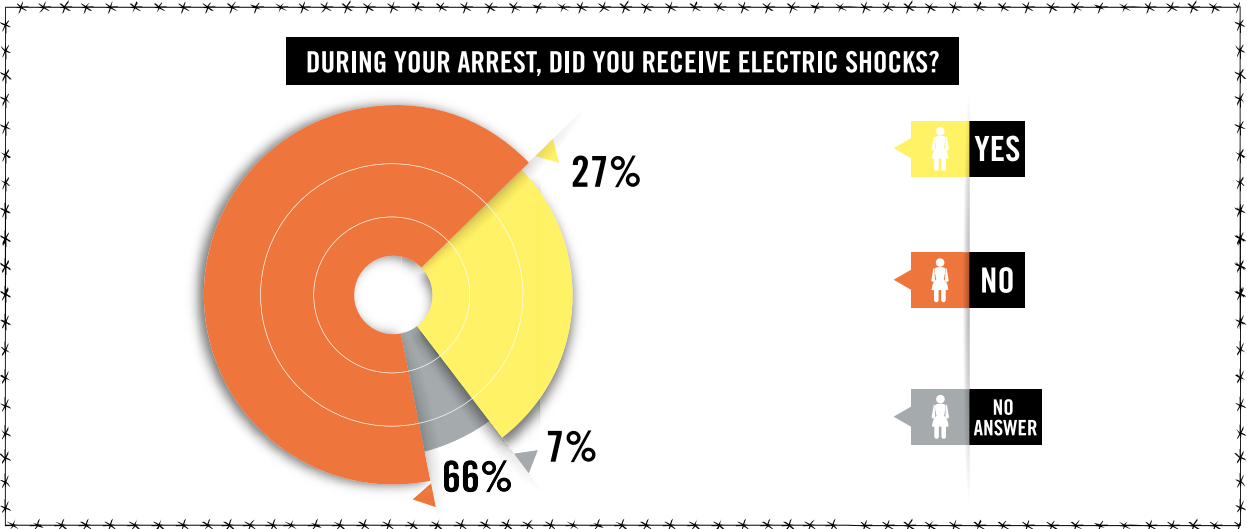
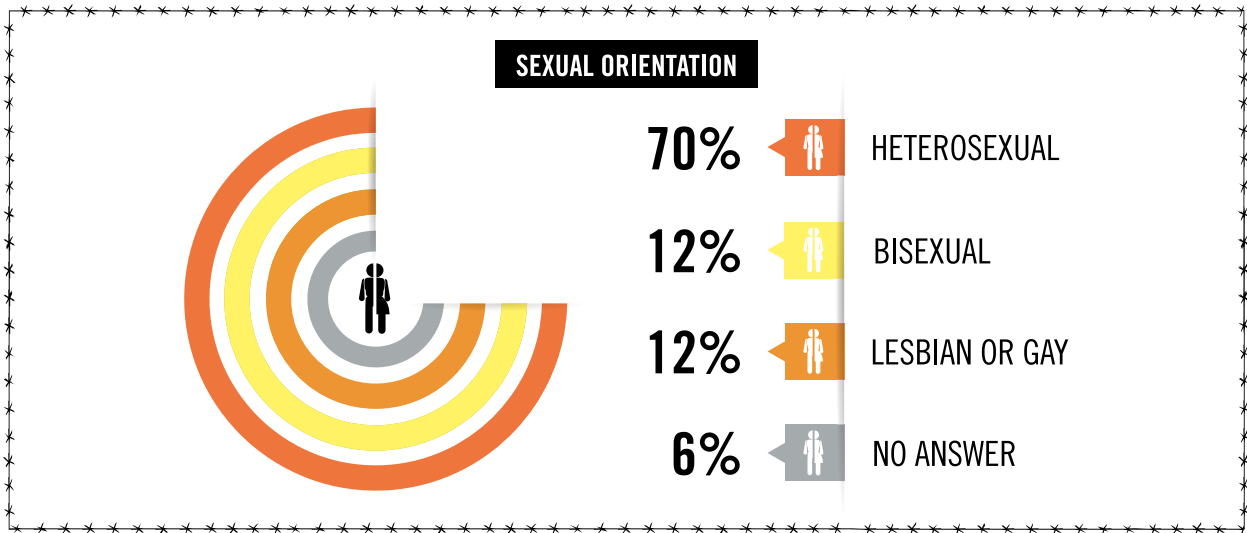


2.2. GENDER SPECIFIC FORMS OF TORTURE AND OTHER ILL-TREATMENT

PUNISHING WOMEN WHO DO NOT CONFORM TO GENDER STEREOTYPES

The modes of torture and other ill-treatment of women are rooted in harmful gender stereotypes. This applies not only to the sexualized nature of the suffering inflicted on them, but also to their punishment for non-conforming gender behaviour. Those who transgress socially accepted expectations of women face specific forms of humiliating and degrading treatment because of their identity. Lesbian, bisexual and transgender women are at particular risk as are women whose bodies do not conform to the expected norms of femininity. A woman interviewed by Amnesty International who weighed over 100kgs explained how Federal Police officers shouted insults at her such as: “you disgusting pig, fucking fatty”.

Of the 100 women that Amnesty International interviewed, 12 said they were bisexual and 12 said they were lesbian. 70 said they were heterosexual and 6 did not answer the question.





DENISE BLANCO
AND KORINA UTRERA

LESBIAN COUPLE RAPED AND HUMILIATED
BY NAVY MARINES

**“I hugged my girlfriend and they beat us and said,
‘You fucking lesbians’.”**

Denise Francisca Blanco Lovato was arrested by Navy marines in 2011.

On 27 August 2011, 25-year-old **Korina de Jesús Utrera Domínguez** and her girlfriend, **Denise Francisca Blanco Lovato**, were at Korina’s home in Tabasco, southern Mexico, when armed marines in camouflage uniforms stormed into the house and started to beat them, yelling: “Don’t play fucking stupid, we are looking for the drugs.”

Both women were blindfolded and taken away without any arrest warrant to a Navy base. There, they were both raped and subjected to near asphyxiation and electric shocks. While being held by marines, Korina, who had never had sex with a man, told Amnesty International she was groped, her nipples were pinched, fingers were thrust into her vagina and a tube was inserted into her anus. One of the marines tried to put his penis into her mouth and shouted “Come on bitch, have a try.” When marines were forcing her to eat food off the ground, one of them yelled: “Enough! They are going to sue us!” Denise was also raped by marines who placed their gloved fingers into her vagina and applied electric shocks to her genitals.

When, more than 30 hours after their arrest, the women were finally taken to a public prosecutor in the neighbouring state of Veracruz, Korina was pressured into signing a “confession” admitting to involvement in organized crime and drug offences. Denise was accused of the same crimes. When Korina told a Navy doctor what the marines had done to her, she told Amnesty International he said: “shut the fuck up, don’t say bullshit.” Both women reported the torture they suffered in front of a judge, but their allegations were later ignored by an appeals judge. The PGR opened an investigation into the torture allegedly carried out by marines and four years later official forensic doctors examined both women. A year after the examination, Denise and Korina still did not know the results. At the time of writing, both women remained in prison awaiting the outcome of their criminal trial. No marine has been charged in the case.

**“I’m pregnant!, I told the policemen.
‘That’s what all the bitches say’, they said.”**

Testimony of woman who alleged torture at the hands of Federal Police in San Luis Potosí, 2011

The methods of torture inflicted on pregnant women often centre on the pregnancy, for example targeted beatings in the stomach area. Of the women interviewed by Amnesty International, 10 said they were pregnant at the time of their detention and eight said they had miscarried as a result of the torture or other ill-treatment they suffered. Amnesty International was not aware of any special medical attention given to these women.



“MY DAUGHTER SAYS TO ME THAT THANKS TO

MÁS VALE D...
lastimar a m...
con mata...
que iban a matar a mi madre e hijas y me iban a aventar los foto...
me dijeron que tenían ubicada a mi familia, particularmente a mis hijas y que podían terminar...
SI NO ACEPTABA LA DROGA QUE ELLOS ME PUSIERON MATARÍAN A MI HIJA Y A MI PAPÁ” a mi familia, a hacerles daño que...
muerte, lastimar a su familia “AMENAZAS DE MUERTE, ABUSO SEXUAL” “qu...
contra mi familia, mi madre, mis hermanos y mi...

+
Taylin Wang

**I USED TO WORK TOO HARD TO GIVE EVERYONE
‘IF YOU WANT TO FLY, LET’S FLY.’**



**“HERE INSIDE I FIND MY OWN STRENGTH,
EVERYTHING IS GOING TO BE OKAY, I AM**

Verónica Razo

...D ME, SHE HAS LEARNT HOW TO BE STRONG."



...THING TO MY KIDS. I USED TO SAY TO THEM,

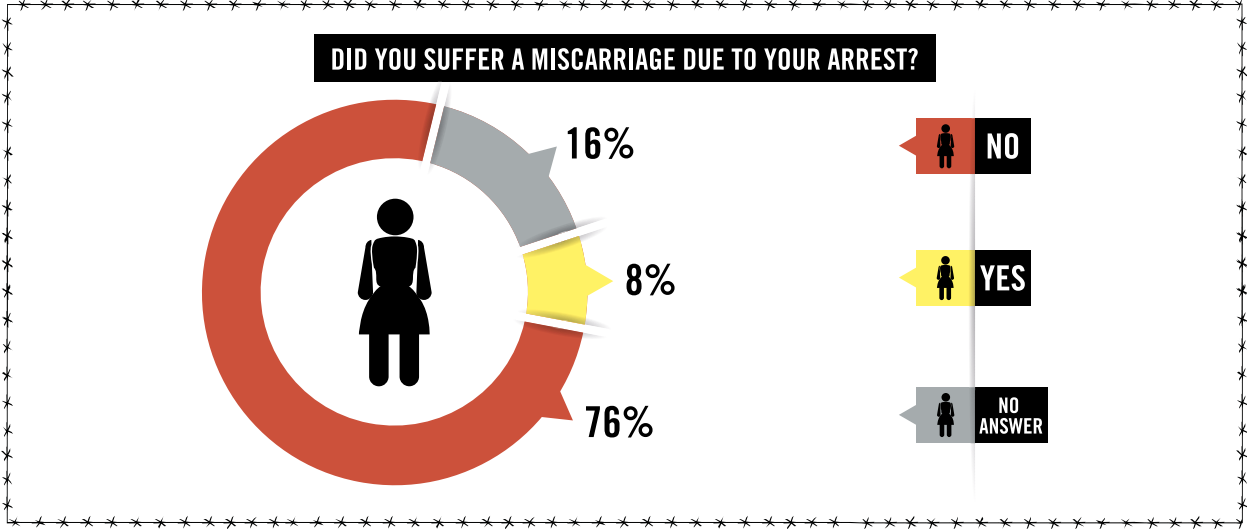
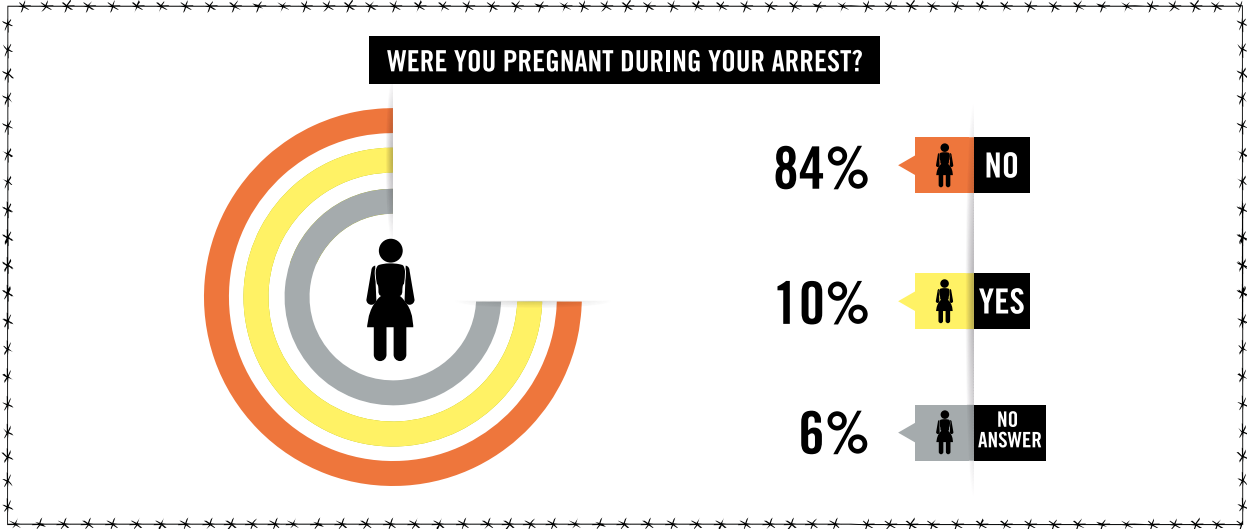
"AMENAZARON CON DARME TOQUES" con la fuerza de toda mi familia, me decían que iban a dañarlos sino les decía donde estaba la persona que ellos buscaban. Me decían que me lastimarían físicamente y sexualmente

"ME AMENAZARON CON MATARME, VIOLARME A MÍ Y A MI MADRE E HIJA"

Magdalena Saavedra

...AND HOLD MY HANDS TOGETHER AND TELL MYSELF GOING TO BE OKAY."

TARGETTED TREATMENT OF PREGNANT WOMEN TO INFLICT FURTHER PAIN AND SUFFERING





YURITXHI RENATA ORTIZ CORTÉZ⁺

PREGNANT AND BEATEN
TIN THE STOMACH FOUR TIMES

Yuritxhi Renata Ortiz Cortéz told Amnesty International that she was two months pregnant when she was arrested by Federal Police in Ozumba de Alzatil, Mexico state, on 12 June 2013. Renata was held for more than 12 hours by the Federal Police before being handed over to public prosecutors. Police officers groped her breasts and her genital area, as well as beating her on four occasions in the stomach. When she was taken to the PGR, she told the public prosecutor that she was pregnant, yet no medical care was offered to her. The medical examination noted simple wounds from her beatings, but the doctor did not note that she was bleeding. According to Renata, the doctor did not ask her any questions during the examination. The first time she was seen by a gynaecologist was over six months after her arrest.



⁺ TAILYN WANG

MISCARRIED INSIDE THE PROSECUTOR'S OFFICES
AFTER BRUTAL POLICE BEATINGS

Tailyn Wang was approximately seven-weeks pregnant when her house was broken into by federal police officers in February 2014 and she was taken to police installations without any arrest warrant. After prolonged beating and sexual abuse at the hands of federal police, Tailyn lost her pregnancy inside the offices of the PGR in Mexico City. Two state doctors undertook a medical examination while she was under official custody, and despite her injuries, the first doctor did not properly examine her and dismissed her claims that she had been brutally beaten. Neither doctor reported her allegations of torture and ill-treatment.

She was given no medicine for her pain and was simply handed a few sheets of paper towel to stuff down her pants before she was whisked away, handcuffed, to board a commercial plane and taken to a federal prison. When the plane landed in Tepic, northwest Mexico, the airline seat was drenched with blood. Tailyn told prison officials she had had a miscarriage, but they only yelled at her. It was only then, in prison and at least four days after the arrest, when Tailyn was told that she was being accused of being part of a gang of kidnappers and charged with organized crime. She bled for five more days in prison without being given any proper medical attention. Tailyn remains in prison awaiting the outcome of her trial. Despite denouncing torture over two years ago, she is still waiting to be examined by an official forensic expert to document the torture and ill-treatment she suffered.

2.2 THE CONSEQUENCES OF TORTURE AND OTHER ILL-TREATMENT

SURVIVING DEATH: PSYCHOLOGICAL TRAUMA, SOCIAL STIGMA AND IMPACT ON THE FAMILY

Many of the women interviewed expressed the severe psychological effect of the torture and ill-treatment they experienced. In cases of sexual violence, the UN Special rapporteur notes that “in addition to physical trauma, the mental pain and suffering inflicted on victims of rape and other forms of sexual violence is often long-lasting due, inter alia, to subsequent stigmatization and isolation.”²⁵

Several women interviewed by Amnesty International said they felt they were close to death while they were being raped. **Yecenia Armenta Graciano**, a survivor of rape by state police officers in Sinaloa in 2012, said that the experience was like dying. Other survivors have described feeling like they were the “living dead”, or that living with the trauma from rape was like being “alive but dead”. As **Verónica Razo** said to Amnesty International: “Who can cure what stays in your mind? Who can take this away from me?”... I avoid closing my eyes at night, I don’t like closing my eyes at all because it all comes back to me.”

The psychological trauma is often extended to the family members who may have witnessed the violent arrest of their loved-one, or suffer the pain of separation from them. In addition, the families of torture survivors often bear extra burdens in terms of financial difficulties and social stigmatization.



VERÓNICA RAZO⁺

DETAINED FOR FIVE YEARS
AWAITING OUTCOME OF TRIAL

“I feel like a parasite because I cannot do more and I represent a financial burden on my family.”

Verónica Razo, a survivor of sexual violence by the Federal Police, has spent five years in prison.

Verónica Razo is 37 years old and has been in prison, separated from her two children, for five years. On June 8, 2011, she was walking along a street near her house in central Mexico City when a car of armed men without uniforms pulled up and abducted her. They took her to a Federal Police warehouse where she was held for 24 hours and tortured. She was beaten, subjected to near asphyxiation and electric shocks and repeatedly raped by several police officers. She was threatened and forced to sign a “confession”. After her interrogation by police and prosecutors, she collapsed and was rushed to the hospital where she was treated for severe heart palpitations. Police claimed they arrested Verónica the following day and accused her of being part of a kidnapping ring. However, the night of her arrest her mother had already filed a missing person’s report with local officials.

Two years after her arrest, psychologists from the PGR confirmed that Verónica presented symptoms consistent with torture. She has spent five years in prison awaiting the outcome of her trial. Verónica’s daughter was just six years old at the time of Verónica’s arrest and her son was 12. Her daughter’s playmates at school tease her for having a “criminal” mother in prison and call her an “orphan.” Nevertheless, her daughter tells Verónica that thanks to her mother, she has learnt how to be strong. Her son, now 18, has been unable to go to university because of the financial burden that his mother’s imprisonment has had on the family. Verónica’s mother had to leave her house and sell her car and her small shop because of the financial difficulty that accompanying her daughter has represented.

²⁵ UN Special Rapporteur on Torture, Gender perspectives on torture (A/HRC/31/57), parr. 51

5. STATE FAILURES AND IMPUNITY

3.1 NATIONAL AND INTERNATIONAL LAW AND STANDARDS

Torture and other ill-treatment are prohibited under the Mexican Constitution²⁶ and a federal law to prevent and punish torture has been in force since 1991. This law criminalizes the offence of torture, but has been widely criticized for falling short of international standards. All public servants in the country are obliged under the Constitution to report torture or other ill-treatment when they are aware of it.²⁷

Mexico is a state party to various international instruments that proscribe torture and other ill-treatment. Mexico ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN Convention against Torture) in 1986; the Inter-American Convention to Prevent and Punish Torture in 1987; and the Optional Protocol to the UN Convention against Torture in 2005.

Mexico has also ratified several international treaties that specifically address violence against women including the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), ratified in 1981; and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Para), ratified in 1998.

In addition, public security officials as well as prosecutors and investigative officials are subject to non-binding standards and normative frameworks aimed at regulating their functions. In the case of police and security forces, the National Programme on Public Security (2014-2018) includes Gender Equality in “Cross Cutting Objective Number 1”. In addition, it calls for the mainstreaming of a gender perspective in all public security corporations. One of the main aims is to develop protocols to protect all at-risk groups. In addition, Strategy No 4.7.4 calls for the implementation of campaigns to eradicate discrimination and gender-based violence in public security institutions. While these objectives are important, unfortunately there are no indicators to measure progress in these areas within the National Programme on Public Security and no accountability measures. Of the few indicators for measuring progress that exist in the Programme, none include gender issues, gender-based violence or discrimination. In terms of the armed forces, both the Army and Navy have internal manuals which make a brief mention of the respect for human rights as well as issues of gender-based violence.²⁸

²⁶ Mexican Constitution, Article 20B.

²⁷ Mexican Constitution, article 1

²⁸ (Código de Conducta de la SEMAR, p. 2) Manual de DDHH para el personal de la Armada de México, p. 22 y 23) (Código de Conducta de la SEDENA, p. 11 y 12) (PROGRAMA de Derechos Humanos de la Secretaría de la Defensa Nacional 2014 – 2018, p. 6)

In the course of this research, Amnesty International tried to obtain further information on internal protocols and administrative sanctions within the Federal Police, Army and Navy regarding gender-based violence or torture and ill-treatment against women. Of the three institutions approached by Amnesty International, only the Federal Police agreed to a meeting. When asked about how these issues were approached by the force, Amnesty International was informed that the majority of cases they worked on in this sense involved violence against women in the workplace, rather than police violence against other people under their jurisdiction. When asked about the number of internal complaints received on torture and other ill-treatment, Federal Police officials were unable to provide disaggregated information on complaints of torture of women as there was no specific internal system that classified disciplinary punishment of these offences as such.²⁹

Federal and state investigators and prosecutors are also bound by particular codes of conduct. In August 2015, a Standard Nationalized Protocol for the Investigation of Torture was introduced which is binding on all state and federal prosecutors.³⁰ This is a step forward as the Protocol includes a number of international standards on torture investigation and stipulates differentiation of treatment according to gender. In addition, in October 2015 the PGR updated its standard for forensic examinations to allow slightly greater sensitivity to ensure women are only examined by women, or a professional of their choice.³¹ While both of these instruments contain some steps in the right direction, it remains to be seen whether they have had a real effect on the investigation and forensic examination of torture.

3.2. INVESTIGATION AND PUNISHMENT OF SEXUAL VIOLENCE AND TORTURE

Mexico's commitments on paper to prevent and punish torture are extensive. However, this has not yet translated into effective safeguards to protect people from torture or other ill-treatment. In particular, under the existing framework to regulate law enforcement and investigative bodies, the number of those punished for inflicting torture, including sexual violence, is very small.

States have an obligation under international human rights law to investigate any allegation or information relating to torture or other ill-treatment, whether this takes the form of a complaint by the survivor or other information brought to the attention of public officials, such as physical or psychological signs, or complaints by relatives or lawyers. A failure by a state to investigate allegations of torture or other ill-treatment is a violation of the right to an effective remedy and the right not to be subjected to torture or other ill-treatment.³² In particular, states must ensure that allegations are promptly, impartially, independently and thoroughly investigated, that survivors have access to an effective remedy and receive reparation, and that those responsible are brought to justice.

CRIMINAL INVESTIGATIONS FOR SEXUAL VIOLENCE AND TORTURE

The number of charges that have been brought for torture in Mexico is alarmingly low. Despite the fact that the PGR reported 2,403 criminal complaints received for torture in 2014, it was unable to inform Amnesty International of even one criminal charge that had been presented in these cases.³³ In years prior to 2014, government information stated that fewer than five people were charged per year, on average, with some years when no one at all was charged.³⁴ In February 2016 the PGR remained unable to inform Amnesty International any charges presented in the previous year.³⁵ Only after an unprecedented public scandal that prompted a government response, in April 2016 the PGR announced charges seemingly for the first time

²⁹ Meeting with Federal Police Unit of Internal Affairs, 31 March 2016

³⁰ Procuraduría General de la República, Protocolo Homologado para la Investigación del Delito de Tortura, August 2015, available at: <http://www.pgr.gob.mx/Subprocuradurias/sdhpdsa/2/Documents/Protocolo%20Tortura%20agosto%202015.pdf>.

³¹ Official Gazette of Mexico, (Diario Oficial de la Federación) 5 October 2015 (Acuerdo A/085/15), available at: http://dof.gob.mx/nota_detalle.php?codigo=5410519&fecha=05/10/2015.

³² Convention against Torture, Articles 12, 13 and 16; Inter-American Convention to Prevent and Punish Torture, Article 8.

³³ Figures as of the end of 2014, as published in Amnesty International, Paper promises, Daily Impunity: Mexico's torture epidemic continues, October 2015 page 5.

³⁴ Amnesty International, Out of Control: torture and other ill-treatment in Mexico, September 2014 page 46

³⁵ Meeting with the Special Unit on Torture of the PGR, 26 February 2016

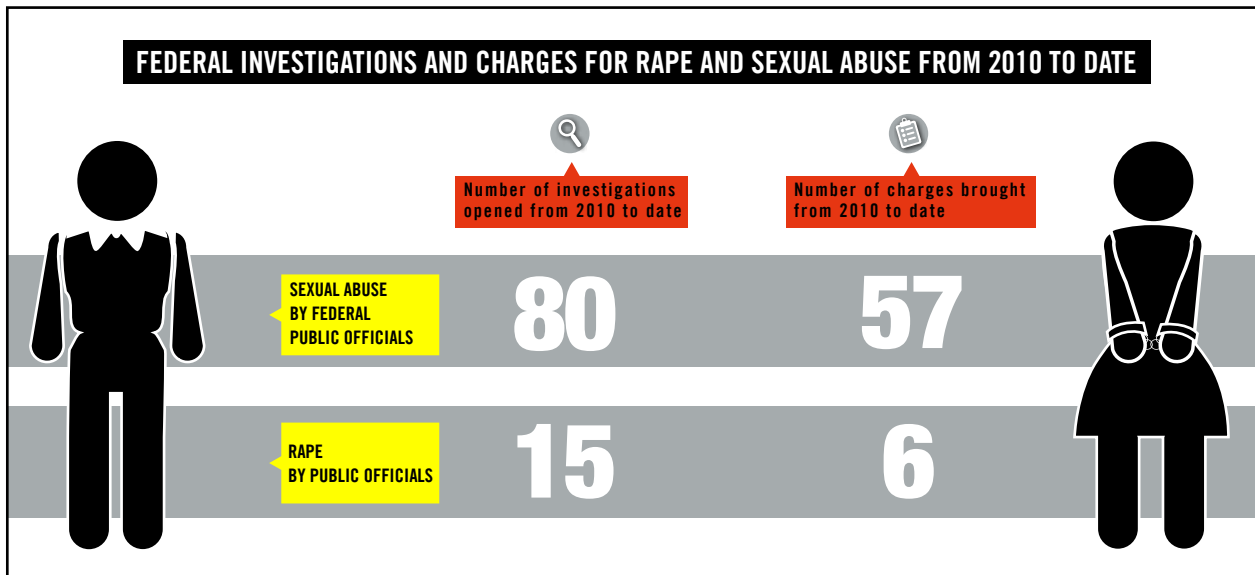
in two years, against five federal officials, in response to a leaked video showing military and soldiers torturing a woman.³⁶ Despite this development, the extent of impunity for torture and other ill-treatment is indicated by the fact that the latest figures show that only 15 cases since 1991 have resulted in federal criminal convictions.³⁷

The fact that criminal investigations and convictions are so rare fosters a climate of impunity. It sends a message that such acts are permitted and tolerated by the authorities. As the Inter-American Court of Human Rights has stated, the obligation to prevent the repetition of human rights violations, including torture and other ill-treatment, depends to a great extent on avoiding impunity and satisfying the right of both victims and society as a whole to know the truth about what happened.³⁸

As the current federal law on torture does not contain any provisions dealing specifically with sexual violence as torture, in November 2015 Amnesty International submitted requests for information on how cases of sexual violence by public officials have been addressed.³⁹ Since 2010, more public officials have been charged with the crime of “sexual abuse” than with torture.

However, the information provided to Amnesty International was very limited. The authorities failed to divulge the body to which officials alleged to have committed crimes of sexual abuse belonged or whether the victims were women or men. The public officials implicated could have been from any sphere of the federal public service, including those outside the security services. The incidents reported could also have involved sexual abuse by public servants against colleagues, which would not necessarily fall within the definition of torture.

Amnesty International has found at least 33 cases in which women have reported being raped by members of the Federal Police, Army or Navy, representing only a small snapshot of all the women arrested and detained at the federal level. However, the authorities have stated that only six charges of rape have been brought against public officials in the past five years.



³⁶ Procuraduría General de la República, Cuatro servidores públicos de las Fuerzas Federales serán procesados por la comisión del delito de tortura. *Comunicado* 593/16, 27 April 2016

³⁷ Inter-American Commission on Human Rights, The Human Rights Situation in Mexico, 31 December 2015, (OEA/Ser.LV/II) para 11.

³⁸ Inter American Court of Human Rights, Case of Bueno Alves vs. Argentina, parr. 90

³⁹ Requests made 30 November 2015 to the PGR: Folio 0001700407315; Folio 0001700407415; Folio 0001700407515; Folio 0001700407615. Responses: 14 December 2015. These responses form the basis of the table above.

SUSPENSION AND DISCIPLINARY SANCTION OF SECURITY FORCES

According to international standards, anyone potentially implicated in acts of torture or other ill-treatment must be removed from any position of control or power over complainants, witnesses and investigators. State agents suspected of torture or other ill-treatment should be suspended from active duty during the investigation.

Amnesty International also submitted a number of freedom of information requests⁴⁰ to obtain information on how the police and armed forces were being internally sanctioned for reported cases of torture and sexual violence. Requests were submitted to the Army, Navy and the Federal Police.

In terms of torture, the Federal Police reported that 14 Federal Police officers had been the subjects of internal investigations for torture between 2010 and 2015.⁴¹ The Army and Navy did not provide information on this aspect.⁴²

MEMBERS OF FEDERAL SECURITY FORCES SUSPENDED FOR “SEXUAL ABUSE” OR “RAPE” FROM 2010 TO 2015⁴³

	2010	2011	2012	2013	2014	2015
FEDERAL POLICE⁴⁴	UNKOWN	UNKOWN	UNKOWN	UNKOWN	UNKOWN	UNKOWN
ARMY⁴⁵	NONE	NONE	NONE	NONE	NONE	NONE
NAVY⁴⁶	NONE	NONE	NONE	3 MARINES SUSPENDED accused of sexual abuse of a woman.	NONE	1 MARINE TEMPORARILY BARRED from duties for 5 years after being convicted of sexual abuse of a woman.
				NONE FOR RAPE		NONE FOR RAPE

⁴⁰ Folio: 0000700215615, Secretaría De La Defensa Nacional, 30/11/2015; Folio: 0000700215715, Secretaría De La Defensa Nacional, 30/11/2015; Folio: 0000700215815, Secretaría De La Defensa Nacional, 30/11/2015; Folio: 0000700215915, Secretaría De La Defensa Nacional, 30/11/2015; Folio: 0001300108315, Secretaría De Marina, 30/11/2015; Folio: 0001300108415, Secretaría De Marina, 30/11/2015; Folio: 0001300108515, Secretaría De Marina, 30/11/2015; Folio: 0001300108615, Secretaría De Marina, 30/11/2015; Folio: 0001300108715, Secretaría De Marina, 30/11/2015; Folio: 0001700123715, Procuraduría General De La República, 06/04/2015; Folio: 0001700407315, Procuraduría General De La República, 30/11/2015; Folio: 0001700407415, Procuraduría General De La República, 30/11/2015; Folio: 0001700407515, Procuraduría General De La República, 30/11/2015; Folio: 0001700407615, Procuraduría General De La República, 30/11/2015; Folio: 0063300007215, Comisión Ejecutiva De Atención A Víctimas, 06/04/2015; Folio: 0413100002516, Policía Federal, antes Policía Federal Preventiva, 11/01/2016; Folio: 0413100002616, Policía Federal, antes Policía Federal Preventiva, 11/01/2016; Folio: 0413100002716, Policía Federal, antes Policía Federal Preventiva, 11/01/2016; Folio: 0413100002916, Policía Federal, antes Policía Federal Preventiva, 12/01/2016; Folio: 0413100003016, Policía Federal, antes Policía Federal Preventiva, 12/01/2016; Folio: 0413100003116, Policía Federal, antes Policía Federal Preventiva, 12/01/2016; Folio: 0413100003216, Policía Federal, antes Policía Federal Preventiva, 12/01/2016; Folio: 0413100003316, Policía Federal, antes Policía Federal Preventiva, 12/01/2016; Folio: 0413100007316, Policía Federal, antes Policía Federal Preventiva, 20/01/2016.

⁴¹ Response of Federal Police to Folio No. PF/OCG/DGE/1122/2016, Policía Federal, 08/03/2016.

⁴² Solicitud de información No. 0000400403415, para la Secretaría de la Defensa Nacional, 30/11/2015.

Solicitud de información No. 0001300108415, para la Secretaría de Marina, 30/2011/2015

⁴³ Information obtained by through a request to the National Institute of Access to Information (INAI)

⁴⁴ Response of Federal Police: Información sobre suspensiones por abuso sexual: Oficio No. PF/OCG/DGE/1229/2016, Policía Federal, 14/03/2016. Información sobre suspensiones por abuso violación: Oficio No. PF/OCG/DGE/1150/2016, Policía Federal, 09/03/2016.

Policía Federal: “Abuso sexual” como tal no se encuentra dentro de la normatividad de la Policía federal que puede iniciar un procedimiento de infracciones a la disciplina de la PF, aunque las conductas que originen un procedimiento pueden tener relación con ese delito o conducta.

⁴⁵ Response of Army: Información sobre suspensiones por abuso sexual: No. De folio 0000700215815, Secretaría de la Defensa Nacional, 09/02/2016. Ninguna ha sido suspendido por este delito, pero hay dos juicios penales abiertos en fuero de guerra actualmente por el delito de abuso sexual, uno de un denunciante hombre y uno de un denunciante mujer, y dos procesos más fueron declinados al fuero civil.

Información sobre suspensiones por violación: No. De folio 0000700215915, Secretaría de la Defensa Nacional, 07/02/2016.

⁴⁶ Response of Navy: Información sobre suspensiones por abuso sexual: Oficio No. UE-1509/15, Secretaría de Marina, 13/01/2016. Información sobre suspensiones por violación: Oficio No. UE-0033/16, Secretaría de Marina, 11/01/2016

In relation to sexual violence, Amnesty International requested information from the three federal security forces as to how many of their agents had been suspended from their role for involvement in, or being suspected of involvement in, cases of sexual violence. The request used the terms “sexual abuse” and “rape”, the terms used in the Federal Criminal Code. The Army stated that seven soldiers were put on trial for rape in 2012 and 2013 and four other trials against soldiers were ongoing for sexual abuse. Some of these trials were carried out under military jurisdiction, contrary to national and international law. However, none of the soldiers involved had been temporarily suspended from service during these criminal investigations.⁴⁷ The Navy reported four marines that had been suspended for sexual abuse in recent years. However, Amnesty International is concerned that the Navy’s response indicates that an official convicted of sexually abusing a woman could be reintegrated into the service once he has completed his prison sentence.

In the case of the Federal Police, Amnesty International was informed that they were not able to provide this information as their internal classification system did not categorize offences in this way. The Federal Police could only provide the total number of Federal Police officials suspended since 2010 for any sort of misconduct. That total was more than 4,000. However, there was no way of knowing how many of these involved sexual violence because the internal system classified suspensions using different categories. Amnesty International plans to request further information on this issue.⁴⁸ The Federal Police Unit for Internal Affairs told Amnesty International that of the thousands of disciplinary files they open against police, violence by police against women is certainly not highest on the list of issues that they look into. They admitted that there may be a lack of coordination between themselves and public prosecutors, who could be alerting them about which officials to investigate.⁴⁹ They told Amnesty International that most disciplinary cases involved issues related to police image and public reputation, misuse of their position in administrative matters and related issues.

Given the seriousness of sexual violence and torture, it is alarming that no soldiers and almost no marines have been suspended for sexual violence against women and that in the case of the federal police the data is unknown. This lack of internal monitoring and control sends a strong message that sexual violence is tolerated as part of the work of the armed forces and the Federal Police.

INEFFECTIVE GENDER TRAINING

The police and armed forces have been provided with abundant training on gender and violence against women, but this has not translated into improvements in their poor performance in oversight and punishment of offenders within the security forces. Amnesty International requested information from the different security forces⁵⁰ on training provided on gender and gender-based violence to the police and armed forces from 2010 to 2015. The Navy stated that in the three-year period 2012 to 2015 they had carried out 262 trainings on “women’s rights” directed at Navy officials. The figures for the Army were even higher, with between approximately 200 and 300 trainings a year on this issue.⁵¹ The Federal Police reported 2,654 trainings carried out in 70 different Federal Police academies between 2012 and January 2016 that looked specifically at the rights of women and a gender perspective.⁵²

However, this ample training on gender-based violence appears to have had little effect in preventing torture and other ill-treatment by the security forces. In 2012, the UN Committee against Torture regretted the lack of information supplied by the state on the content of the training programmes on human rights and the prohibition of torture that are administered by the Ministry of Public Security, the Ministry of Defense and the Navy Ministry and noted the lack of information on the impact of these trainings.⁵³ The Committee further recommended that Mexico develop and apply a methodology for assessing how effective its training programmes are in reducing the number of cases of torture and ill-treatment.⁵⁴

⁴⁷ Información sobre suspensiones por abuso sexual: No. De folio 0000700215815, Secretaría de la Defensa Nacional, 09/02/2016.
Información sobre suspensiones por violación: No. De folio 0000700215915, Secretaría de la Defensa Nacional, 07/02/2016.

⁴⁸ Información sobre suspensiones por abuso sexual: Oficio No. PF/OCG/DGE/1229/2016, Policía Federal, 14/03/2016.
Información sobre suspensiones por violación: Oficio No. PF/OCG/DGE/1150/2016, Policía Federal, 09/03/2016.

⁴⁹ Meeting with Federal Police head of Internal affairs, 31 March 2016.

⁵⁰ Federal Police response to Folio 041300002616, 26 January 2016; Ministry of Defense response to Folio 0000700215615 20 January 2016; Navy response to Folio 0001300108315, 4 February 2016

⁵¹ These are: 218 in 2012, 314 in 2013, 314 in 2014 and 192 in 2015.

⁵² Federal Police response to Folio 041300002616 Ministry of Defense response to Folio 0000700215615 20 January 2016

⁵³ CAT, 2012 CAT/C/MEX/CO/5-6, para. 25

⁵⁴ CAT, 2012 CAT/C/MEX/CO/5-6, para. 26b

REPEATED FAILURES TO INVESTIGATE TORTURE: THE MEDICAL DEFICIT

Doctors who carry out the initial medical examination of detainees are usually the first point at which torture can be documented. They should note the general health of the detainee and are required to document any injuries or wounds that a detainee may present following the arrest. Extensive research by Amnesty International has shown how these medical examinations are usually very poor⁵⁵ and either fail completely to give a true description of the detainee's physical and mental state or else underestimate the severity of their injuries.

Some doctors have proven to be more thorough and list the number of wounds that the detainee presents on various parts of the body. However, legal requirements stipulate the following classifications for injuries: a) life-threatening wounds; b) injuries and wounds that should heal in 15 days or less; or c) no wounds were found.⁵⁶ Although the organization has documented several cases where the survivor was rushed to hospital following arrest and placed in an emergency ward, in none of the medical examinations of all these cases were the injuries classified as life-threatening. For example, **Mónica Esparza Castro** (see Chapter 2) was rushed to hospital and placed in a hyperbaric chamber as part of the treatment for the serious injuries she sustained as a result of beatings and gang rape. The hospital records noted significant bleeding and ripping of the vaginal area. However, the PGR doctor who had examined Monica had noted simply that she “presented injuries that are not life-threatening and take less than 15 days to heal.”⁵⁷

Whenever a detainee or prisoner makes allegations of torture or other ill-treatment, or when there is reason to believe that the individual has been tortured or otherwise ill-treated, the individual should be immediately examined by an independent doctor who can report without interference from the authorities. In line with the duty to ensure independent, impartial and thorough investigations into such allegations, examinations should be conducted by an independent medical service in a manner that is consistent with the UN's Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).⁵⁸ However, in Mexico, medical examinations are normally carried out by health professionals linked to the PGR or by military doctors from the Army or the Navy. The health professional's reliance on the institutions implicated in the torture or who stand to the benefit from information obtained under torture gravely compromises the impartiality and independence of the medical professionals.

Amnesty International was given access to some medical examinations carried out by Navy doctors which raised particular concerns. In the case of **Korina Urtrera** (see Chapter 2), Navy doctors noted no injuries arising from the arrests even though a matter of hours later she was examined by PGR doctors who noted more than 15 different injuries on her. The stark contrast in the findings of the two examinations suggests a concerted attempt of the Navy to conceal the violence inflicted. Neither the Navy doctor nor the PGR doctor called for Korina to be seen urgently by a psychologist or a gynaecologist for the evident injuries and trauma.

⁵⁵ Amnesty International, *Out of Control, torture and other ill-treatment in Mexico*, September 2014, Appendix

⁵⁶ Federal Criminal Code, article 289

⁵⁷ Comisión Nacional de los Derechos Humanos, Recomendación No. 15 /2016 Sobre el Caso de Retención Ilegal en Agravio de V1, V2 Y V3, Tortura y Violencia Sexual en Agravio de V1, Tortura en Agravio de V2 Y Ejecución Arbitraria en Agravio de V3, en Torreón, Coahuila. 13 de abril de 2016, página 15

⁵⁸ Convention against Torture, Articles 12 and 13, and Committee Against Torture General Comment 3.



MARÍA MAGDALENA SAAVEDRA⁺

NOTED AS “PHYSICALLY HEALTHY”
BY NAVY DOCTOR AFTER BEING RAPED

It was just past midnight on Mother’s Day on 10 May 2013 in San Luis Potosi, northern Mexico, and Magdalena, who owned a small beautician and manicure business, was preparing to take an early morning serenade of mariachis to surprise her mother. Suddenly, she heard noises from the roof of her apartment and thought burglars were trying to get into her house. Before she knew it, a large group of armed Navy marines wearing helmets knocked down her door and burst into her bedroom. The marines started to beat her, shouting and asking her “Where is the money?” They yelled at her, accusing her of being the financial controller for a major drug gang.

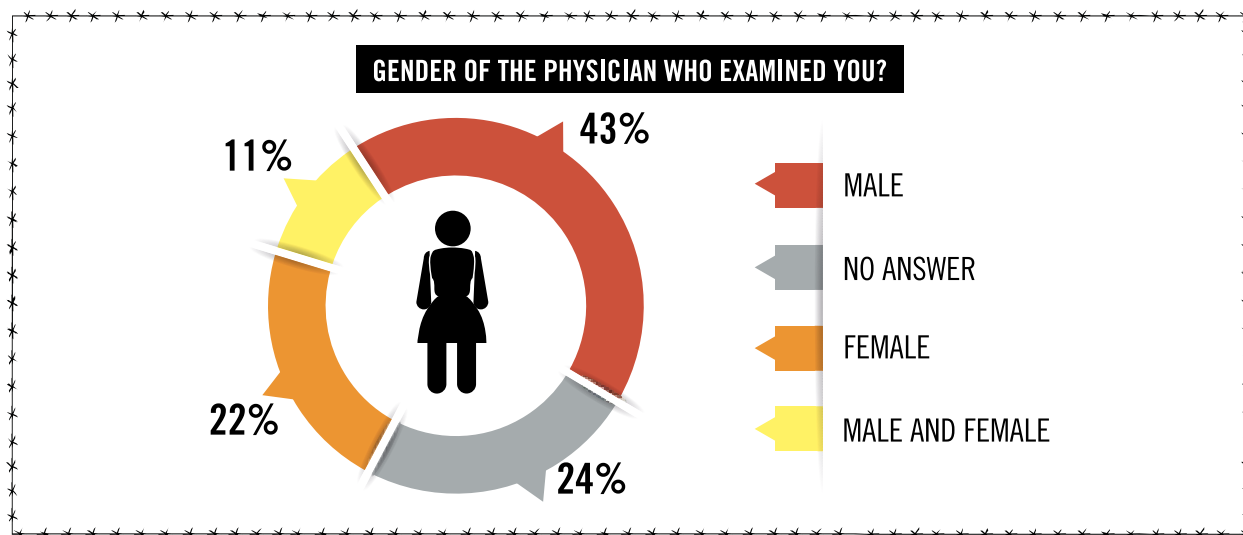
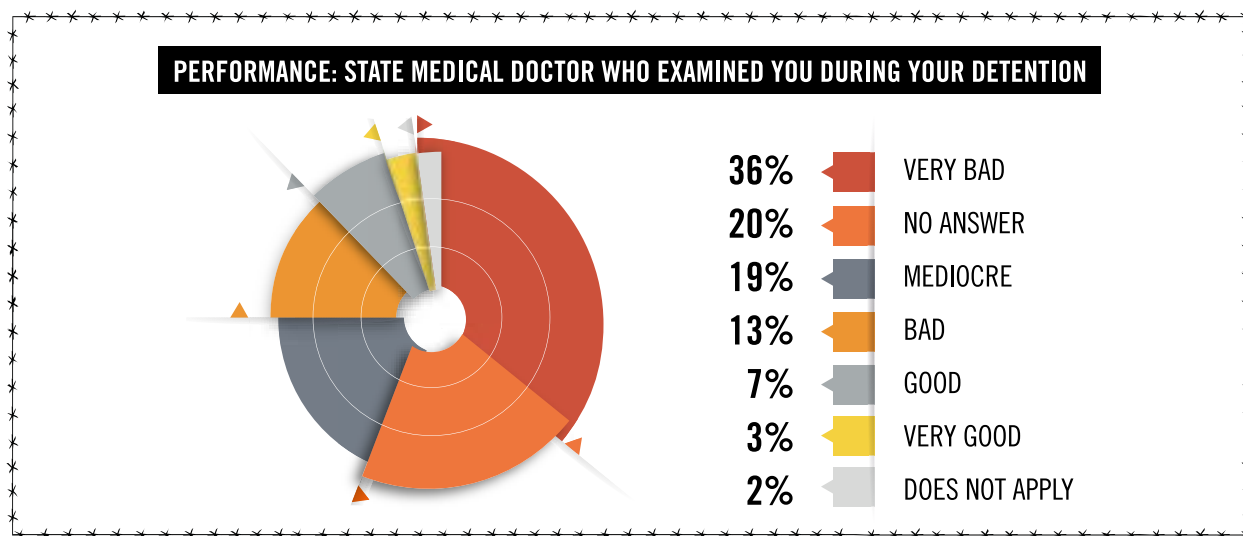
They placed a bag over her head until she suffocated and passed out. Then, they loaded her into a van and continued to beat her and raped her with objects. They later took her to a building that to Magdalena appeared to be a police station and applied electric shocks to her vagina and her mouth. They had grabbed the address of her daughter from Magdalena’s belongings and threatened to harm her. The torture at the hands of the Navy marines lasted for 20 hours.

Magdalena was then taken to the offices of the PGR and forced to sign a “confession” with her fingerprints. On her way to PGR, a marine stayed by her side and continued to beat her. In the PGR she was presented to the media by the Navy and the Coordinated San Luis Potosí Police (Mando Unico Policial de la Zona Centro.)

When Amnesty International interviewed Magdalena in early 2016, the scars were still visible and she showed clear signs of trauma. At her first hearing before a judge a couple of days after her arrest the description of Magdalena’s state was in stark contrast to that documented by the Navy: “the suspect was sobbing, with tension, depression and manifest anxiety”. The Navy doctor had noted following her arrest that “the detainee is ‘physically healthy’”. Magdalena remains in prison awaiting the outcome of her trial.

THE DOCUMENTATION OF SEXUAL VIOLENCE BY STATE DOCTORS

Inadequate medical examinations and poor documentation of detainees' injuries contribute to the prevalent impunity and hinder victims' access to justice and reparations. Medical examinations can yield important pieces of evidence of torture and other ill-treatment and when they are poorly carried out they undermine the investigation as a whole, especially given the fact that in any forensic investigation of torture or other ill-treatment, government experts usually rely heavily on the medical examination carried out at the time of arrest. Moreover, attempts to conceal torture and other ill-treatment in this way also reduce the likelihood that the detainee will get proper emergency attention. Such cases demonstrate a failure by official doctors to fulfil their obligations, making them complicit in human rights violations. Amnesty International asked the 100 women to rank the performance of the state doctors that had examined them in the hours following their arrest. Only 10 out of 100 women ranked them as "good" or "very good", while 49 women rated the attention received as "bad" or "very bad", and 19 ranked them as "mediocre".



Women have the right to be examined or treated by a female practitioner on request, to the extent possible, except in situations requiring urgent medical intervention.⁵⁹ When a female practitioner is not available, the woman should have the option of being accompanied by another female in the room.

⁵⁹ UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) Rule 10(2), available at https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf.

Women who report rape must have urgent access to treatment by independent gynaecological experts and psychologists. According to the Istanbul Protocol, the physical signs of sexual assault diminish significantly within a week after the rape has occurred.⁶⁰ Any emergency gynaecological examination must only proceed with the consent of the victim, preferably within a matter of hours or days after assault and within adequate facilities with privacy. Health practitioners must be aware that any medical examination may be an extremely painful experience for a rape survivor and may produce feelings of shame and trauma, thus re-victimizing them. In addition, prior to and in the context of gynaecological examinations, survivors should have access to a qualified psychologist specialized in treating trauma.⁶¹

Amnesty International has documented how in cases of rape, gynaecological examinations are usually carried out months after the torture occurred. This delay further endangers the health of the woman, who in many cases may suffer from severe vaginal or anal infection as a consequence of the violence inflicted or from sexually transmitted diseases. In addition to the health risks, the evidentiary value of medical examinations deteriorates as time passes.

The PGR and the authorities responsible for arresting women are grossly underequipped to deal with the challenges of documenting sexual violence. Even if these institutions were to develop rigorous protocols on this issue, a lack of independence and impartiality on the part of medical professionals would continue to undermine examinations carried out at the time of arrest.

The lack of independence and impartiality in investigations of torture, particularly in cases of sexual violence, is a considerable obstacle to justice for survivors and fosters impunity for perpetrators. Doctors carrying out these medical examinations have close links with the judicial police and work under the authority of public prosecutors.

THE FAILURE OF PUBLIC PROSECUTORS TO ADEQUATELY INVESTIGATE TORTURE AND OTHER ILL-TREATMENT

Public Prosecutors present a deficit in the investigation of torture and other ill-treatment. Of the women who told Amnesty International they denounced torture or other ill-treatment to authorities, only a third of these were aware of some sort of investigation that had been opened. Of those who did not report the violence suffered, many said they had not done so for fear of reprisals against them or their families.

Amnesty International has observed in a number of cases that investigations are often delayed and fail to gather the most basic information in order to investigate the alleged torture, such as arrest records, street cameras, police radios, as well as carrying out crucial interviews. When Amnesty International enquired about the case of Verónica Razo, the PGR informed that an investigation was opened in 2011 into the torture she alleged. Almost five years after Verónica was tortured, no advances in the investigation have resulted in charges laid against possible perpetrators.⁶²

The pressures inherent in investigating one's own colleagues will often act as a disincentive to carrying out rigorous examinations and compromise the outcome. In addition, public prosecutors rarely use due diligence in their investigations and fail to carry out the most basic tasks, such as examining arrest records, carrying out site inspections of possible places of torture, ordering forensic investigations on police vehicles and inspecting radio records or interviewing police officers and their superiors.

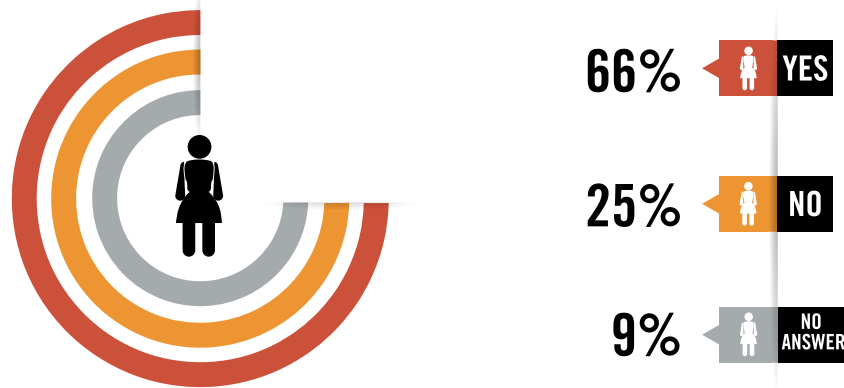
⁶⁰ UN Istanbul protocol, par 223

⁶¹ UN Istanbul Protocol, par. 217: "establishing a rapport with torture survivors who have recently been sexually assaulted requires special psychological education and appropriate psychological support. Any treatment that would increase the psychological trauma of a torture survivor should be avoided. Before starting the examination, permission must be obtained from the individual for any kind of examination, and this should be confirmed by the victim before the more intimate parts of the examination. The individual should be informed about the importance of the examination and its possible findings in a clear and comprehensible manner."

Istanbul Protocol, Paragraph 219: "Ideally, there should be adequate physical and technical facilities for appropriate examination of survivors of sexual violation by a team of experienced psychiatrists, psychologists, gynecologists and nurses, who are trained in the treatment of survivors of sexual torture. An additional purpose of the consultation after sexual assault is to offer support, advice and, if appropriate, reassurance. This should cover issues such as sexually transmitted diseases, HIV, pregnancy, if the victim is a woman, and permanent physical damage, because torturers often tell victims that they will never normally function sexually again, which can become a self-fulfilling prophecy."

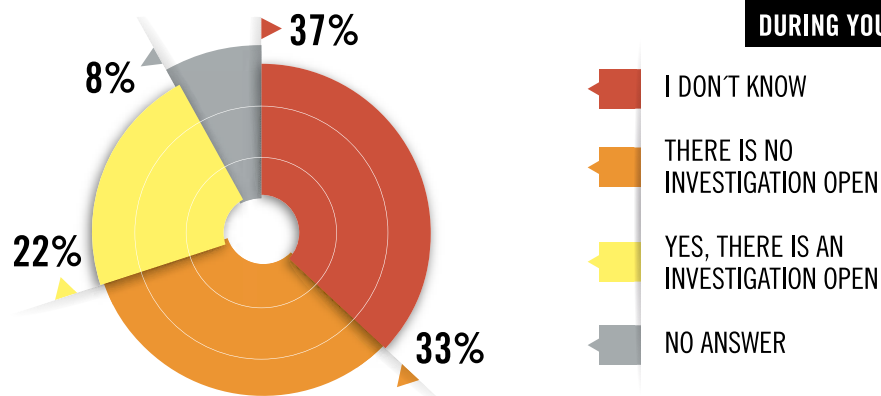
⁶² Letter to Amnesty International from Subprocuraduría Especializada en Delitos Federales, Oficio PGR – SEIDF- 2594- 2015, 21 de diciembre de 2015

DID YOU REPORT THE VERBAL, PSYCHOLOGICAL, PHYSICAL OR SEXUAL VIOLENCE TO ANY AUTHORITY?



In October 2015, a new Specialized Unit on Torture was created by the PGR. The PGR also increased the number of prosecutors dedicated to investigating this crime. While this is a positive step, the Unit has yet to produce results. Additionally, in terms of torture and other ill-treatment of women, the Unit faces challenges regarding specialist gender training for prosecutors. However, the new Unit informed Amnesty International that it was starting its own process of gender training for its prosecutors and would not be drawing on the considerable expertise on gender issues built up over a number of years by prosecutors from PGR's Special Prosecutor's Office for Violence Against Women and Trafficking in Persons (Fiscalía Especial para los Delitos de Violencia contra las Mujeres y Trata de Personas, FEVIMTRA).

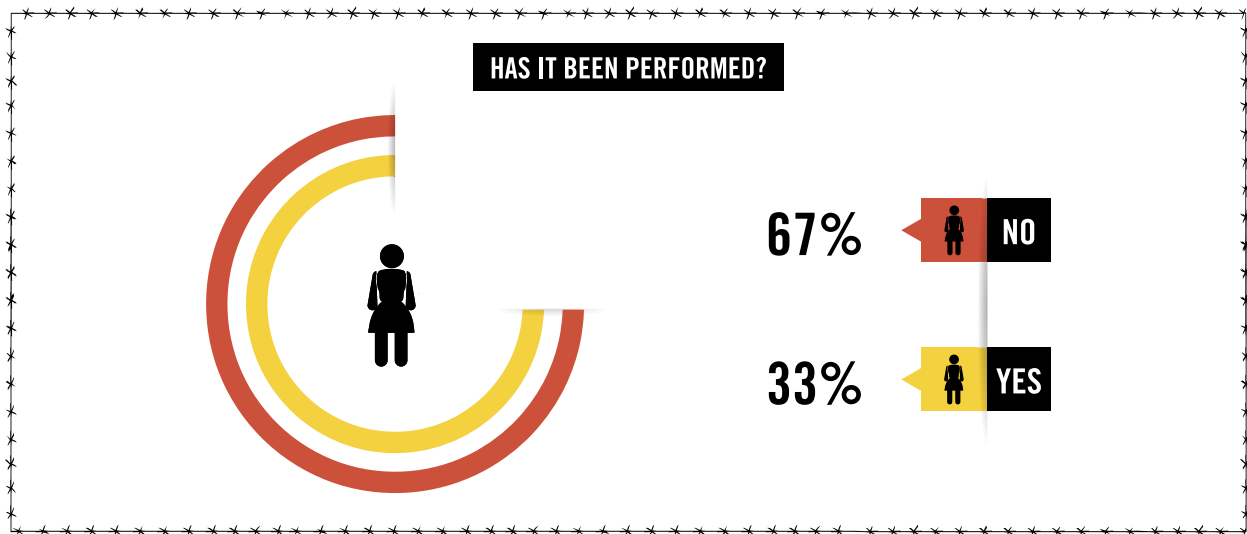
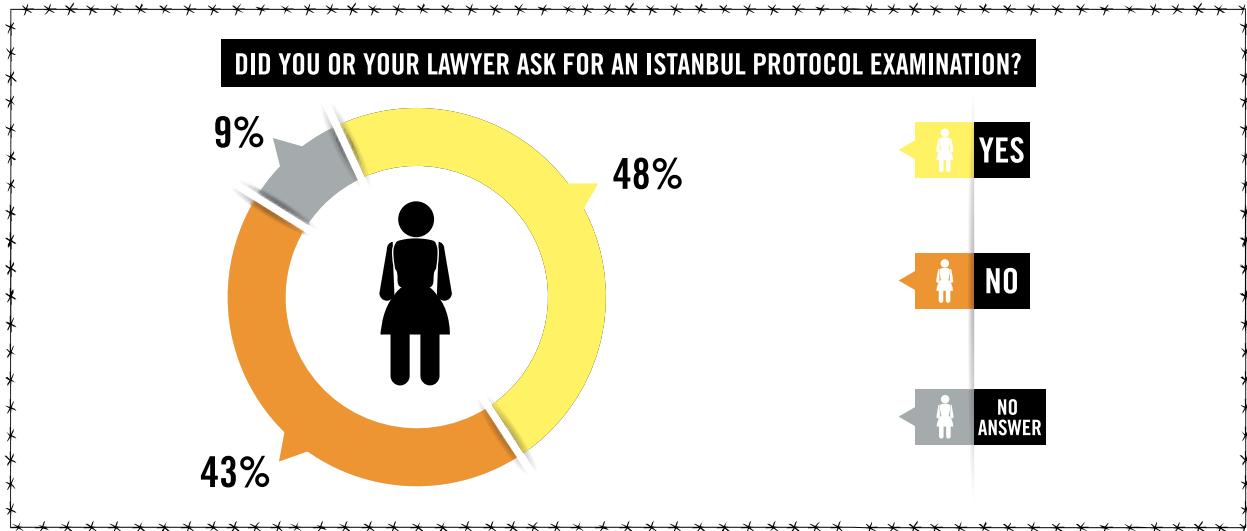
IS THERE AN INVESTIGATION OPEN ABOUT THE VIOLENCE, ILL-TREATMENT AND/OR TORTURE SUFFERED DURING YOUR DETENTION?



FORENSIC EXAMINATIONS IN LINE WITH THE ISTANBUL PROTOCOL

The UN Istanbul Protocol sets out the standards for the investigation of torture and other ill-treatment. An important section of this manual is dedicated to the forensic part of the investigation that is carried out by doctors and psychologists specialized in performing expert examinations on people who allege torture or other ill-treatment. These expert examinations determine whether allegations are consistent with clinical signs of torture and other ill-treatment, be they medical or psychological. The results from these examinations constitute important pieces of evidence in legal trials.

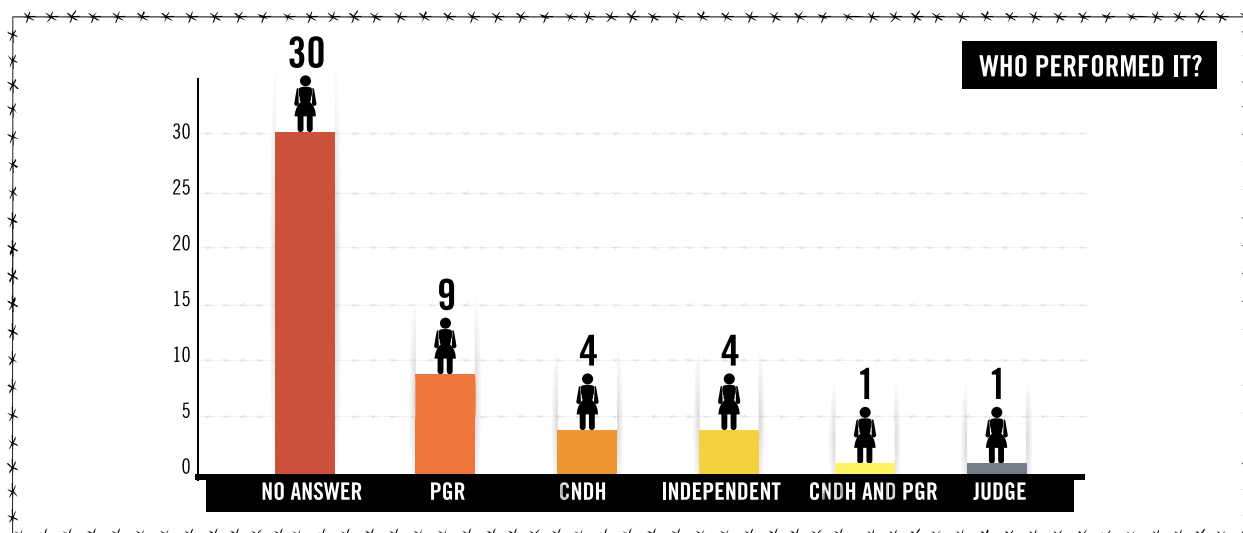
In Mexico, at the federal level, the main authority that carries out these examinations is the PGR, with the CNDH also having capacity to do so as well as the Federal Council of the Judiciary. Amnesty International has documented how examinations carried out by PGR are often performed far too late, long after the alleged torture took place, and were flawed in a number of ways.⁶³ In October 2015, the PGR informed Amnesty International that it had undertaken 185 forensic examinations in 2014, but that 1,600 applications for new examinations were pending.⁶⁴ In the course of this research, a number of defence lawyers, torture complainants and family members told Amnesty International that when they requested the application of the official forensic examinations by the PGR they were told the waiting list was “more than 3,000” or that “they can’t carry out any examinations until 2020”.⁶⁵



⁶³ Amnesty International, Out of Control: torture and other ill-treatment in Mexico, September 2014

⁶⁴ Amnesty International, Paper promises, Daily Impunity: Mexico’s Torture epidemic continues, October 2015

⁶⁵ These comments were compiled from interviews with a number of the women who relayed these comments from their defense lawyers, or from court officials we spoke to while carrying out casefile documentation.



When Amnesty International asked women if they had requested a forensic examination, many of them replied that they had, and for those who had been subject to an examination, few were aware of the authority that had performed it. It is possible that in some cases these examinations did not constitute full forensic examinations in line with the Istanbul Protocol. The PGR was noted as having performed only nine of these examinations.

In cases of sexual violence, the late and inadequate application of forensic examinations is a major concern. In the case of **Veronica Razo** (see Chapter 2), she was visited by PGR medical professionals two years after she was raped by Federal Police officers. The PGR found no medical signs of sexual violence and failed to confirm the torture on medical grounds, basing its argument on the injuries noted down by the state doctor at the time of arrest. Verónica told Amnesty International that during the forensic examination by an official doctor and psychologist, a public prosecutor was present at all times. The presence of a public prosecutor during a medical or psychological examination may intimidate the torture survivor as well as undermine the independence of the examination. In addition, the psychological examination was performed by a male, which was an uncomfortable experience according to Verónica, given the sexual violence she had experienced. Despite the lack of sensitivity in carrying out the examination, the PGR psychologist concluded that Veronica presented trauma symptoms consistent with her torture testimony.

JUDICIAL RESPONSIBILITIES REGARDING INVESTIGATIONS INTO TORTURE AND OTHER ILL-TREATMENT

Under the Mexican Constitution (Article 1 and Article 109), judges are required to report cases of torture and other ill-treatment to public prosecutors. They have a duty to order an immediate investigation into possible torture, whether this is brought to their attention through a complaint from the victim or through other information, such as physical or psychological signs or complaints by relatives or lawyers. In 2012, the Supreme Court of Justice determined that public officials who ignore or fail to act diligently on information indicating torture or other ill-treatment must also be subject to investigation and held to account.⁶⁶ In addition, the National Code of Criminal Proceedings (Article 222) requires judges to denounce any signs of torture and other ill-treatment that may be presented during a trial and order an investigation. In practice, this usually takes the form of a simple advice from the judge to the public prosecutor to open an investigation. The UN Special Rapporteur on Torture noted in his 2014 visit to Mexico that these judicial advices usually constituted a “mere formality.”⁶⁷ Other members of the judicial branch fall short in their obligation to denounce torture and other ill-treatment. In the case of **Mónica Esparza Castro**, after being gang raped by police and hospitalized after her torture, the official public defense lawyer assigned to her filed a complaint for “injuries”, a lesser crime in the criminal code.

⁶⁶ Amparo en revisión 703/2012

⁶⁷ OHCHR, Conclusiones preliminares del informe sobre la visita a México del Relator Especial de Naciones Unidas sobre la tortura y otros tratos crueles, inhumanos o degradantes, Juan E. Méndez, visible en p. 4.

Of the 66 women who told Amnesty International that they reported torture or ill-treatment to authorities, many of these women did so in their first hearing before a judge. Many women interviewed were not sure which authority was carrying out the investigation. Amnesty International is not aware of any criminal charges arising from these investigations. This deficit in follow-up is in part due to public prosecutors who may fail to carry out investigations properly, yet is also in part explained by the lack of oversight from judges.

In December 2015 the National Supreme Court of Justice issued a protocol for judges to be applied when dealing with cases that involve allegations of torture.⁶⁸ Annex 6 of this Protocol proposes an oversight body for the federal judiciary that would monitor the status of judicial advices on torture made to prosecutors and follow up on these, in order to ensure due diligence in the investigations ordered. To date this oversight body has not been implemented.

THE RIGHT TO REMEDY AND REPARATIONS

Individuals who have been subjected to torture and other ill-treatment must have accessible and effective remedies. Besides ensuring that allegations are promptly, impartially, independently and thoroughly investigated, states must guarantee that victims have access to an effective remedy and receive adequate reparations.

States have an obligation to provide complaints mechanisms to comply with the right to an effective remedy.⁶⁹ Even without an express complaint by the victim, an investigation must be conducted where there are reasonable grounds to believe that an act of torture or other ill-treatment may have taken place.⁷⁰ A failure by a state to investigate allegations of torture or other ill-treatment is a violation of the right to an effective remedy and the right not to be subjected to torture or other ill-treatment.

Providing redress for torture and other ill-treatment of women requires the establishment of independent oversight mechanisms. In Mexico, the CNDH and the 32 state human rights commissions have the power to carry out investigations into cases of torture and other ill-treatment. Moreover, the CNDH acts as the National Prevention Mechanism (NPM), part of the government's programme to comply with the Optional Protocol to the Convention against Torture.

THE CNDH – FAILING TORTURE SURVIVORS

The CNDH is the organ constitutionally responsible for carrying out the role of ombudsperson for the protection and promotion of human rights. While it has issued various recommendations on torture and other ill-treatment in recent years, this number pales in comparison to the number of complaints it has received.⁷¹

Torture survivors and their representatives, as well as civil society organizations, have frequently complained that the CNDH is failing victims. While Amnesty International is aware of rigorous actions from some CNDH staff, such as a psychologist who came to see a rape victim while she was in pre-charge detention to give her daily two-hour sessions of therapy, in many cases the CNDH has not lived up to expectations.

The CNDH has been widely criticized for its excessive secrecy during its investigations, even blocking survivors' access to files. In a number of cases where CNDH experts carried out forensic examinations on torture survivors, they did not hand the results of these examinations over to the survivors themselves or to their representatives. In some of the cases examined for this report, the torture survivor was unaware of the results of the examination more than two years after the CNDH had undertaken an Istanbul Protocol forensic examination. These are vital pieces of evidence for trials in which torture survivors are facing charges based on evidence that may have been extracted under torture or other ill-treatment.

⁶⁸ National Supreme Court of Justice, *Protocolo de Actuación para quienes Imparten Justicia en asuntos que involucran hechos constitutivos de tortura y malos tratos*, December 2014, available at: http://www.sitios.scjn.gob.mx/codhap/sites/default/files/archivos/paginas/Protocolo_tortura_electronico.pdf

⁶⁹ Committee Against Torture, General Comment 3, para 23

⁷⁰ United Nations Convention Against Torture, article 2

⁷¹ According to the Annual Reports of the CNDH, between 2010 and 2015, the CNDH received 7,048 reports of torture and other ill-treatment and has only issued 62 recommendations.

Article 48 of the Law of the CNDH allows for the CNDH to exercise discretion regarding whether or not they hand over documents to family members during and after trial. The CNDH is only required to provide copies to a judge. However, a judge will not ask for this evidence if one of the parties does not request it be presented. And if a torture survivor does not know the results of the examination, they will not know whether it would help their case or not. As a result important evidence may not be presented in court.

The lack of due diligence by the CNDH in following through on investigations of torture and other ill-treatment was criticized by a number of survivors. They felt that the CNDH had failed to provide them with the assistance it should, not least regarding the issue of accessing documents where the CNDH had placed a number of obstacles in their way. Women with children are particularly affected by these obstacles as their families are already struggling to cope with the care of the children and do not have the funds to travel to Mexico City to spend hours or days trying to get the CNDH to see them or let them see copies of the casefile. Furthermore, the CNDH often does not allow photocopies of the file to be made by relatives of the torture survivor, so these documents cannot be presented as evidence.

The CNDH has nonetheless recognized since 2005 the effects of torture and other ill-treatment on women and urged the authorities to take effective measures to prevent and punish acts of sexual violence against women. CNDH General Recommendation 10 of 2005 states:

General Recommendation 10/2005 (own translation):

The National Commission makes a special statement regarding women detained who suffer sexual violence as part of the torture to which they are victim; using women's bodies and sexuality as an element to punish and provoke suffering denotes a clear insult to the integrity and sexual liberty of women, which form part of their human rights. This contributes to the deplorable perpetration of a culture of violence and misogyny which transgresses the most intimate spheres with violence and with illegal objectives.

From 2012 to 2016, the CNDH issued 36 recommendations relating to torture and sexual violence against women. The perpetrators of this crime most often cited in CNDH recommendations are members of the Navy and the Army, which received 72% of these recommendations.⁷² While these recommendations incorporate international standards on sexual violence and recognize it as form of torture, they generally fail to address systemic problems that need to be tackled, such as the causes of torture and other ill-treatment of women, the need for effective oversight of the security forces and the abysmal state of medical and psychological attention given to women following their arrest.

BARRIERS TO ACCESS TO JUSTICE: THE LACKLUSTRE RESPONSE OF THE JUDICIARY

Putting the burden of proof on torture survivors

Investigations of torture and other ill-treatment continue to place the burden of proof on the complainant. Even when Mexican law places the burden of proof on the state, the vestiges of the written, inquisitorial justice system that gives primacy to the first declarations made before a prosecutor undermine evidence that the defence may present subsequently.

The Committee Against Torture has stated on several occasions that states must ensure that the burden of proof regarding allegations of torture and other ill-treatment must never fall on the victim. This, as explained by the Committee, is necessary since it is the authorities that have the power, and the obligation, to conduct investigations, while the victims are often in detention and without recourse to independent experts. Moreover, the Committee has reaffirmed that, when a person in the custody of the state presents an injury, it is the state that is presumed to be responsible unless there is compelling information to the contrary. Judges often fail to comply with this standard. In the case of **Yuritxhi Renata Ortiz Cortés** (see section 4), despite the fact that the arrest carried out by Federal Police involved a prolonged period in police custody and the official doctor notes injuries arising from the arrest, a federal tribunal discarded these possible indications of torture or other ill-treatment, simply stating that there was no coercion in the arrest. It is necessary for judges to take extreme caution in arriving at these conclusions, calling on public prosecutors to prove that any evidence presented was not obtained under torture or other ill-treatment.

⁷² Amnesty International examined the recommendations published by the CNDH on sexual torture and violence from 2012 to date. The body that received most recommendations was the Navy with 16, followed by the Army (10), The National Security Commission (6) and state governments (3) and the former Public Security Ministry (1).

The Inter-American Court of Human Rights has similarly ruled, in a case against Mexico, that whenever a person alleges within a proceeding that a statement or confession was obtained under duress, the burden of proof cannot rest with the plaintiff, but rather it is up to the state to prove that the confession was made voluntarily.⁷³

PROLONGED PERIODS IN PRISON DUE TO JUDICIAL DELAYS

72 of the 100 women that Amnesty International interviewed were in preventive detention awaiting the outcome of their trials. The majority of women had been arrested from 2011 onwards, and most of them had not yet reached the end of their trial. It was common for women to have been in preventive detention for four years or more.

According to the UN Special Rapporteur on Torture:

“A majority of female detainees worldwide are first-time offenders suspected of or charged with non-violent (drug- or property-related) crimes, yet are automatically sent to pretrial detention. Women in pretrial detention facilities — which are typically not built or managed in a gender-sensitive manner — tend not to have access to specialized health care and educational or vocational training.....According to the Committee against Torture, the undue prolongation of the pretrial stage of detention represents a form of cruel treatment, even if the victim is not detained (A/53/44).”⁷⁴

The United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules) outline that pre-trial detention shall be used as a last resort in criminal proceedings.⁷⁵ Amnesty International found that many women were faced with excessive delays in their trials, often due to simple logistical delays in hearings. This compounded the suffering that they were subjected to, given the poor medical facilities in the prison. In addition, prisoners were given limited activities and reported being kept in their cells for up to 22 hours a day. Furthermore, a number of the women interviewed reported forced nudity during surprise revisions of their living quarters by male guards.

“I FEEL BURIED ALIVE HERE” NEW FEDERAL PRISON FOR WOMEN

Federal prison Number 16 in Morelos state is the only federal women's prison.

*The sun that sets over the prison cannot be seen from inside by the female prisoners in their cells.
Medical care in the prison is very limited.*

Women have been transferred to this prison far away from their homes and the courthouses where their trials are taking place. There are only two video-conferencing rooms to facilitate the trials of more than 1,400 inmates. A hearing may be delayed for as much as a year because of logistical shortcomings, which judges are failing to address.

Foto: Amnesty International  →



REPARATION: THE NEED FOR TRANSFORMATIONAL CHANGE

Reparations for women survivors of sexual violence as torture and other ill treatment and victims of discrimination must ensure a transformative effect in the lives of those affected, their communities and society as a whole. It is not sufficient to merely provide restitution in these cases, since it is vital to address the root societal causes of these violations and provide guarantees of non-repetition, as well as transforming the life of the torture survivor. In this sense,

⁷³ Inter American Court of Human Rights, *Montiel and Cabrera vs Mexico* para. 136

⁷⁴ A/HRC/31/57, para 20

⁷⁵ A/RES/45/110, Rule 6.1

the Inter American Court of Human Rights has developed specific jurisprudence in judgements against the Mexican state in recent years.

The case of *Cotton Field v. Mexico*⁷⁶ was the first in which the Inter American Court of Human Rights made a full analysis of the concept of transformational reparations and bore in mind the context of structural discrimination of women in which the facts of this case occurred. In this case, the Court determined that “the reparations must be designed to change this situation, so that their effect is not only of restitution, but also of rectification. In this regard, reestablishment of the same structural context of violence and discrimination is not acceptable.”⁷⁷

Amnesty International is aware of no case of torture of women that has received fully satisfactory reparations from the Mexican State. The only case that comes close is the case of **Inés Fernández and Valentina Rosendo**, two victims of sexual violence by the Mexican Army in Guerrero state in 2002 who were awarded reparations from a 2010 ruling from the Inter American Court of Human Rights. The reparations awarded in this case spoke to the need for transformation change in relation to sexual violence against indigenous women in the state of Guerrero.⁷⁸ Despite a binding ruling from the court and some measures of reparation such as criminal proceedings opened against four soldiers for the crimes committed, there are many measures which are yet to be implemented, such as guarantees of no-repetition in relation to violence against women in the state of Guerrero, the strengthening of standards on investigation of sexual violence, among others.⁷⁹

⁷⁶ Caso Montiel y Cabrera, pra. 136

⁷⁷ *ibid*

⁷⁸ *Fernández Ortega and others vs México*, Judgement of 30 August, paras. 243, 244, and 267 to 270, available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_215_esp.pdf

⁷⁹ Tlachinollan Human Rights Centre, NOTA INFORMATIVA I Corte IDH llama al Estado mexicano a informar avances en el cumplimiento de las sentencias en los casos de Inés Fernández y Valentina Rosendo, 3 May 2016.



WENDY NORELI HERNÁNDEZ DÍAZ

Wendy Noreli Hernández Díaz was arbitrarily detained by the Navy in August 2011 in Tabasco state. She told Amnesty International how marines urinated on her and raped her with their gloved fingers, which later provoked an infection that was not adequately attended to by doctors. After hours of torture, marines took off Wendy's blindfold and presented her to the media in front of a table laden with drugs and arms. Wendy denounced the torture she suffered before a judge who ordered public prosecutors to carry out an investigation. Forensic medical experts from the PGR examined Wendy four years after her arrest. Wendy remains in prison awaiting the outcome of her on charges for production of narcotics.



+ FLORENCIA JOVITA HERRERA RAMOS

Florencia Jovita Herrera Ramos was working as a domestic cleaner until 3 October 2014 when municipal police stormed into her house in Valle de Chalco, Mexico State, accusing her of having participated in a kidnapping. The police reports on the case provided no justification for the excessive 11 hour delay in presenting Florencia Jovita to a public prosecutor. According to Florencia Jovita, police not only took her from her house but also grabbed her 11-year old grandson. After beating Florencia Jovita for hours and threatening to hurt her grandson, they took both of them to the SEIDO and kept the young boy on a mattress on the floor for two days while they interrogated Florencia Jovita. Florencia Jovita's arrest reports noted down clear bruises and injuries. She was charged with kidnapping and organized crime and remains in prison awaiting the outcome of her trial.

6. OPPORTUNITIES FOR STATE ACTION

THE NEED FOR STRONG LEGAL PROTECTIONS

Under international law, rape always constitutes torture when carried out by, at the instigation of, or with the consent or acquiescence of public officials,⁸⁰ whether in state facilities or other locations, such as the victim's home.⁸¹ In a recent judgment, the Mexican Supreme Court concluded that rape can constitute torture.⁸²

The draft General Law on Torture currently under discussion in Congress must fully reflect the definition of torture as provided under international law. This would directly entail that rape carried out by officials or with official involvement would always constitute torture, as would other forms of sexual violence, depending on their nature. This law has been delayed beyond the constitutional deadline set for January 2016 in order to pass the law.⁸³

Recent reforms to the criminal justice system have the potential to introduce new safeguards for the prevention, investigation and punishment of torture and other ill-treatment. In particular, criminal justice procedures that are due to be implemented starting from the latter part of 2016 would reduce the importance of confessions made before a prosecutor as the new oral, accusatory system gives lesser weight to declarations made without the presence of a judge.

A National Code of Criminal Procedure, approved in 2014, requires strengthened judicial evaluation of evidence and upholds the principle that evidence obtained as a result of violations of fundamental human rights will not be admissible in court.

Nevertheless, unless the new General Law on Torture and the National Code on Criminal Procedure address the failings of the Mexican justice system, women will continue to be subjected to unjust trials that require them to shoulder the burden of proving regarding the violence they suffered, which not only re-traumatizes them but is contrary to human rights law.

⁸⁰ See for instance *Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgment of 2 September 1998, para. 687; *Prosecutor v. Zejnil Delalic*, Case No. IT-96-21, ICTY Trial Chamber II, Judgment of 16 November 1998, paras. 475-496, 943, 965; *Prosecutor v. Anto Furundzija*, Case No. IT-95-17/1-T, ICTY Trial Chamber, Judgment of 10 December 1998, paras. 264-9; Interim Report of the Special Rapporteur on torture to the General Assembly, UN Doc. A/55/290 (2000), para. 5; Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/HRC/7/3, 15 January 2008, paras. 34-6; *Aydin v. Turkey*, European Court of Human Rights, Reports 1997-VI (57/1996/676/866), Judgment of 25 September 1997, para. 86; *Fernando and Raquel Mejia v. Peru*, Inter-American Commission on Human Rights, Report No. 5/96, Case No. 10.970, 1 March 1996; para. B(3)(a); *Almonacid Arellano et al. v. Chile, Preliminary objections, merits, reparations and costs*, Inter-American Court of Human Rights, Judgment of 26 September 2006, Series C No. 154, para. 82.4.

⁸¹ Inter-American Court of Human Rights, *Fernandez Ortega vs Mexico*, para. 128; Committee against Torture, *V. L. v Switzerland*, UN Doc. CAT/C/37/D/262/2005 (2007), para. 8.10.

⁸² National Supreme Court of Justice Tesis Aislada, P. XXIV/2015, 25 September 2015

⁸³ Although the constitutional deadline for the Congress to approve this law was in January 2016, it still remains unresolved and the bill is awaiting discussion in the Chamber of Deputies.

Both laws must ensure as a matter of urgent priority that people who allege they have been tortured and their lawyers are able to present evidence about the allegations at any point in the trial, without restrictions. In addition, the General Law on Torture must fully comply with the principle of exclusion of all evidence or information obtained under torture or ill-treatment from trial proceedings.

URGENT NEED FOR A STRONG TASKFORCE ON TORTURE OF WOMEN

On 9 September 2015, a “Mechanism to Follow up on Cases of Sexual Torture Against Women” (Mecanismo de Seguimiento de Casos de Tortura Sexual) was established in the Ministry of the Interior and convened by the CONAVIM.⁸⁴ It brings together a number of key federal authorities on this issue, including the PGR, the CEAV, SEGOB and the Foreign Ministry, as well as civil society representatives. This mechanism was the result of demands from human rights NGOs whose “Breaking the Silence” campaign had called for concrete actions from the state to address the issue of sexual violence as torture.

While the mechanism is certainly a step in the right direction, more can be done to accelerate its work and strengthen its impact. The mechanism has four main objectives. Firstly, it is designed to receive complaints of sexual violence as torture and review the information available on the cases. Secondly, after reviewing the case it must emit a joint recommendation to all the state institutions involved in order to coordinate actions in relation to the investigation of the case. Thirdly, it has the objective of monitoring cases of women who report sexual violence as torture, especially from women who are currently imprisoned. Finally, the mechanism is designed to propose public policies to prevent and combat sexual violence as torture against women. During the months since its establishment, the mechanism has been slow in making progress on the just three cases that it currently has on file, starting with the case of **Verónica Razo** which was supposed to be reviewed in October 2015. The mechanism in theory is able to receive any cases of sexual violence as torture, yet to date has made no concrete efforts to widen the reach of its work.

In addition, there is no formalized process by which the federal judiciary is to be involved in this mechanism, in order to fully address the cycle of impunity and ensure follow up on cases where women have been falsely accused based on confessions extracted under torture, or where judges have ordered investigations arising from torture allegations. Independent psychologists and medical experts on torture are also missing from the mechanism. Furthermore, despite the fact that the body is designed to propose public policy to prevent and combat torture, to date it has not carried out any actions in line with this goal, such as communicating on the issue with the Federal Police, Army and Navy in regards to the oversight measures in place on this issue. Finally, when Amnesty International spoke to the Special Unit on Torture of the PGR it was not aware of this mechanism, suggesting a lack of coordination within the PGR.

This mechanism presents an important opportunity to make advances on the issue of torture of women. It can function as a task force that works to accelerate a number of issues, such as the rapid deployment of medical and psychological experts in cases where women denounce sexual violence and the coordination of efforts to investigate possible perpetrators. If the government is serious about this mechanism, it must ensure it has adequate resources, all relevant institutions fully collaborate with it and its decisions are adequately followed up by those who must implement them.

⁸⁴ Ministry of the Interior (SEGOB) Official minute of the Establishment of the Mechanism to Follow up on Cases of Sexual Torture Against Women, Oficio number CNPEVM/1019 – 7/2015.

7. CONCLUSIONS AND RECOMMENDATIONS

The Mexican authorities face an urgent challenge. The torture and other ill-treatment of women, including sexual violence, during arrest and detention is a human rights scandal that has been shrouded in silence by flawed investigations and the almost total impunity enjoyed by perpetrators. The authorities must take urgent steps to address and prevent these grave human rights violations, through improved oversight, monitoring and accountability, effective and efficient coordination of different areas of the state, improved data collection and, above all, a clear commitment to prioritize this issue ending torture and other ill-treatment of women by agents of the state. Given the bindings obligations on the Mexican state in regards to these issues, Amnesty International recommends:

TO THE PRESIDENT

- Order the prompt withdrawal of the armed forces from public security tasks, for which they are neither trained nor accountable.
- Publicly recognize the magnitude of the problem of torture and other ill-treatment in Mexico, in particular the use of sexual violence against women, and send a clear message that these acts will no longer be tolerated.
- Make official medical forensic experts independent of the offices of the Attorneys General at federal and state level.

TO THE MINISTRY OF THE INTERIOR

- Strengthen the existing “Mechanism to Follow up on Cases of Sexual Torture” convened by CONAVIM by allocating it with the resources necessary and ensuring that all relevant institutions collaborate with it.
- Make sure the Mechanism effectively coordinates with the judiciary in relation to allegations of torture, while preserving the independence of both branches of the state. Where the review of cases confirms that criminal evidence has been extracted under torture or other ill-treatment, ensure the mechanism outlines recommendations to ensure a fair trial.
- Ensure the Mechanism accelerates the investigation of allegations of sexual violence as torture or other ill treatment to ensure perpetrators are brought to justice. The Mechanism must have an open mandate to receive cases of sexual violence as torture and implement measures to protect women who report these crimes.

- Include measures for rapid deployment of medical and psychological experts to those women that allege sexual violence as a form of torture or other ill-treatment.
- Establish accountability measures for the mechanism with full participation of civil society and independent experts on torture or other ill-treatment.
- Carry out exhaustive impact evaluations of all training courses imparted to the police and the armed forces on human rights, especially on women's rights and gender-based violence.

TO THE FEDERAL POLICE, ARMY AND NAVY

- Ensure anyone arrested is brought before a public prosecutor or judge without delay. Criminal suspects should not be presented before the media.
- Suspend any agents – regardless of rank – suspected of being involved in acts of torture or other ill-treatment, pending impartial and independent investigation and ensure that any public official found to have been directly or indirectly responsible for torture and other ill-treatment is not employed in other public security, prosecutorial or judicial institutions;
- Strengthen the oversight mechanisms within the armed forces to ensure adequate sanctions.

TO THE FEDERAL COUNCIL OF THE JUDICIARY

- Urgently establish an oversight body within the judiciary, in line with Annex 6 of the Supreme Court Protocol on Action by Judges on Torture that provides centralized follow up on torture and other ill-treatment investigations ordered by judges and monitors the progress in prosecutions arising from such complaints.
- Guarantee that the burden of proof when allegations of torture and other ill-treatment are made rests with the state in order to demonstrate that evidence was not obtained as a result of torture or other ill-treatment.
- Exclude any evidence where there are reasonable grounds to believe that it has been obtained under torture or other ill-treatment.
- Instruct all judges to ensure due diligence in managing their trials and where possible avoid unnecessary delays in hearings due to logistical mishaps.
- Ensure that pre-trial detention is only used as a means of last resort in accordance with the Tokyo Rules, only when demonstrating that detention pending trial is necessary and proportionate and establishes that release would create a substantial risk of flight, harm to others or interference with the evidence or investigation.

TO THE FEDERAL ATTORNEY GENERAL'S OFFICE

- Accelerate the work of the Special Unit on Torture and urgently publish a registry of torture complaints, disaggregated by gender, age and nationality.
- Immediately launch a prompt, independent, impartial and exhaustive investigation into any information concerning or allegation of torture and other ill-treatment, and ensure it is conducted in accordance with international standards in order to bring those responsible to justice.

- Accelerate the application of forensic examinations to all alleged victims of torture and other ill-treatment so that examinations take place immediately and ensure in cases of sexual violence that they are conducted with the appropriate sensitivity to issues of trauma and gender.
- Ensure that the PGR's Special Prosecutor's Office for Violence Against Women and Trafficking in Persons (FEVIMTRA) works in coordination with the PGR Special Unit on Torture to ensure effective actions to address the torture and sexual violence of women.
- Guarantee that investigations into torture and other ill-treatment include interviews with those in the chain of command, site inspections, detention records, official doctors, street cameras, police radio device records and other means to ensure perpetrators are brought to justice.
- Allow for better coordination with medical professionals who can rapidly be deployed in cases of allegations of sexual violence. Ensure any gynaecological attention obtains the fully informed consent of the woman and that she is able to choose how to be examined, as well as guaranteeing psychological accompaniment in such cases.
- Strengthen the application of forensic examinations in line with the Istanbul Protocol, ensuring gender sensitive treatment of survivors, guaranteeing that women doctors attend women victims and attending the survivor as someone who is in complete control to choose the way she is treated.

TO THE CONGRESS

- Promptly adopt the General Law on Torture without delay, ensuring the following elements are legislated within it:
 - Torture and other ill treatment are criminalized in line with the Inter-American Convention to Prevent and Punish Torture.
 - All evidence obtained under torture or other ill-treatment is excluded from any judicial proceedings, except against a person accused of torture or other acts of ill-treatment as proof that the torture occurred. The law must ensure that when evidence was obtained as a result of torture or other ill-treatment, the judge excludes the relevant evidence at the outset (*in limine*) and initiates an inquiry within the trial in order to make a final determination. The prosecution must bear the burden of proving beyond reasonable doubt that the evidence was obtained lawfully.
- Amend Article 48 of the National Human Rights Commission Law in order to oblige the CNDH to provide copies of the results of medical examinations to victims and their representatives, regardless of the requirements of a judge.

TO THE NATIONAL HUMAN RIGHTS COMMISSION

- Ensure that the results of forensic examinations carried out by medical or psychological experts of the CNDH are provided without delay to complainants of torture or other ill-treatment or their family members, and that they have access to their casefile in the CNDH.



**AMNESTY INTERNATIONAL
IS A GLOBAL MOVEMENT
FOR HUMAN RIGHTS.
WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

JOIN THE CONVERSATION



www.facebook.com/AmnestyGlobal



[@AmnestyOnline](https://twitter.com/AmnestyOnline)

SURVIVING DEATH

POLICE AND MILITARY TORTURE OF WOMEN IN MEXICO

Torture is widespread in Mexico's "war on drugs", but the impact on women has been largely ignored or downplayed. This report analyses the stories of 100 women who have reported torture and other forms of violence during arrest and interrogation by police and armed forces. Severe beatings; threats of rape against women and their families; near-asphyxiation, electric shocks to the genitals; groping of breasts and pinching of nipples; rape with objects, fingers, firearms and the penis – these are just some of the forms of violence inflicted on women, in many cases with the intention of getting them to "confess" to serious crimes.

All the women interviewed by Amnesty International spoke of some form of physical or psychological abuse; 72 reported sexual violence, including 33 who said they had been raped. All of them remain in prison, facing serious charges, and having received little medical or psychological support. But their torturers are out on the streets.

The Mexican state has opportunities for action on this issue. A recently announced taskforce on sexual violence as torture is a step in the right direction, but the mechanism needs urgent strengthening as it remains dormant. A General Law on Torture urgently needs to be adopted in order to ensure all evidence obtained through torture and other ill treatment is excluded from the judicial process.