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**Mexico City, 15 October 2021.**

**United Nations Working Group on discrimination against women and girls  
OHCHR - UNOG**

8-14 Avenue de la Paix  
1211 Geneva 10, Switzerland

**Subject: Submission of thematic report on girls  
and young women's activism to be presented at  
the 50<sup>th</sup> Human Rights Council**

Dear Members of the Working Group:

The Mexican Commission for the Promotion and Defense of Human Rights takes this opportunity to contribute to the work of the Working Group and submit information for the thematic report on girls and young women's activism that you will be presenting at the 50<sup>th</sup> session of the United Nations Human Rights Council. Particularly, the purpose of this submission is to shed light on the risks posed to girls' and young women's participation and activism in the political and public life by the recently adopted National Law on the Use of Force.

**Submission with regard to section III.3 and III.4 of the Questionnaire**

In Mexico, the increasing participation of the Armed Forces in public security operations, since 2006,<sup>1</sup> has provoked a rise in violence and in the commission of serious human rights violations, including those against women, young women and girls.

While the incumbent Mexican government has acknowledged the massacres and serious human rights violations committed in the past, it has continued with the strategy that encourages and even deepens the militarization of public security. Thus, through the creation and deployment of the National Guard, whose commanders and members come from the military, the government has insisted that militarism is the only response to organized crime. Particularly, the Government has undertaken various constitutional and legal reforms that, contrary to international human rights law,<sup>2</sup> give more

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<sup>1</sup> Paris Alejandro Salazar, "[La seguridad pública se militariza en 11 estados](#)", *La Silla Rota*, (8 January 2015); Jorge Carrasco Araizaga, "[Militares en el papel de policías: diez años de fracasos](#)", *Proceso*. (15 April 2017); Moloeznik, P. Marcos Pablo y Suarez de Garay María Eugenia, "El proceso de militarización de la seguridad pública en México (2006–2010)", en *Frontera Norte* vol.24 no.48 (July/December. 2012).

<sup>2</sup> See, for instance, Interamerican Court of Human Rights, *Alvarado Espinoza and others v. Mexico*, 28 November 2018, where the Court stressed that maintenance of public order and security should primarily be reserved to civil police corporations and that armed forces may solely participate thereon in an exceptional, extraordinary, regulated, audited, subordinated and complementary manner.

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power and faculties to the Armed Forces. These include the creation of the National Guard, the so-called “[Militaristic Decree](#)”<sup>3</sup>, and the National Law on the Use of Force.

Closely related to the repression of women, young women, and girl's social protests, on May 27, 2019, the so-called [National Act on the Use of Force](#) (LNUF, for its Spanish acronym) was published in Mexico as part of the regulatory framework for the deployment and operation of the militarized National Guard. While regulating the actions of a corporation like the National Guard is necessary, the LNUF disproportionately restricts the rights of human rights defenders, including the rights of women, young women and girls to protest and demonstrate for gender equality and against discrimination and gender-based violence.

Whereas article 27 of the LNUF prevents the National Guard from using arms “against those participating in *peaceful or licit demonstrations or assemblies*”, article 28 allows it to use force when demonstrations and assemblies “*become violent*”. This vague and ambiguous language empowers the National Guard to use force after arbitrarily determining whether a protest is unlawful or violent. This causes a “chilling effect” on human rights defenders, who end up having fear and thus inhibit their right to assemble, demonstrate and protest. In other words, given the wide margin of discretion that this law gives to military authorities, women, young women, and girls may be prevented from freely exercising their rights, as they are placed in a situation of risk and fear for performing their activism activities.

These rules also contravene international human rights standards on the protection of the rights to peaceful assembly and association. Concerning the *peaceful* nature of assemblies, the Special Rapporteur on the rights to freedom of peaceful assembly and association has highlighted the need to limit this concept and the existence of a “presumption in favour of holding peaceful assemblies”. This means that the authority must, *a priori*, consider that assemblies are peaceful and do not threaten public order. In the words of the Special Rapporteur, “unclear legal provisions should be clarified, and [in] the absence of clarity, such provisions should be interpreted in favour of those wishing to exercise their right to freedom of peaceful assembly.”<sup>4</sup>

Moreover, in its Concluding observations on the sixth periodic report of Mexico, the Human Rights Committee noted with concern that some of the provisions contained in the National Act on the Use of Force run counter to the provisions of the Covenant, to which Mexico is Party, and to the Committee’s general comment No. 36 (2019) on the right to life. Particularly, the Committee established that “the law does not clearly specify the circumstances in which the use of lethal force is permissible, does not provide for records to be kept of cases in which force has been used and for appropriate mechanisms to be established to ensure transparency and accountability in the use of

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<sup>3</sup> See, CMDPDH, “[Posición de la CMDPDH sobre el acuerdo que militariza la seguridad pública](#)”, 26 June 2020

<sup>4</sup> United Nations, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, [A/HRC/23/39](#), 24 April 2013, paragraph 50.

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force, and affords protection against the use of weapons at public demonstrations and meetings only if the event is deemed to have a lawful purpose (arts. 6, 7 and 21).”<sup>5</sup>

Furthermore, it is worth mentioning that, far from empowering women, young women and girls and protecting their rights to freedom of peaceful assembly and association, the LNUF adopts a control and crowd management approach; for it considers protests as a whole objective of the use of force, even when unlawful or violent actions within these demonstrations are performed by random persons. Thus, the infiltration of provocateurs into peaceful assemblies could justify the use of force against all persons participating in them. This approach may also generate a ‘chilling effect’ on human rights defenders, who, being placed in a situation of risk and fear that the National Guard will repress their protests, may feel deterred and self-censor their work to protect their integrity. In this regard, the United Nations Special Rapporteur on Extrajudicial, Arbitrary or Summary Executions has stated that “[i]n the case of lawful and peaceful assemblies, force may not be used. If there are reasonable grounds to stop an unlawful but non-violent assembly, only the minimum necessary force may be used. The mere fact that some members of a protesting crowd are violent does not make the demonstration as a whole a non-peaceful assembly”, and that, even in the face of violent acts, “the minimum possible force should be used and firearms may only be used in accordance with” the applicable principles on the matter.<sup>6</sup>

Additionally, the LNUF violates the right to legal certainty by not contemplating: i) the purpose of the use of force; ii) the principles of rationality and opportunity; iii) the definition of methods, techniques and tactics for the use of arms; and iv) the mechanisms and procedures for the presentation of reports by authorities using firearms.<sup>7</sup> Specifically, Article 36 violates legal certainty and the principle of legality; for it assumes that in certain operations the use of lethal force may be required and authorized from the planning of such operations. In other words, the use of lethal force may be contemplated without even proving the existence of a real, actual and imminent aggression and without it being used as a last resort in accordance with international standards.

Shortly, the LNUF lacks guarantees for the protection of human rights and its ambiguous and imprecise provisions allow the authorities, who have real possibilities to repress demonstrations, meetings or protests, to take arbitrary actions against women, young women and girls’ activism. **For these reasons, we consider that the very validity of the LNUF, together with the impunity of crimes committed against human rights defenders in Mexico, generates such uncertainty that it threatens and deters the work of human rights defenders, including women, young women and girls, whose activism is essential for democracy.**

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<sup>5</sup> United Nations, Human Rights Council, Concluding observations on the sixth periodic report of Mexico, [CCPR/C/MEX/6](#), 7 November 2019, paragraph. 20.

<sup>6</sup> Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Christof Heyn, Twenty-fifth session of the Human Rights Council, [A/HRC/26/36](#), paragraph 75.

<sup>7</sup> Arguments from the “[Acción de inconstitucionalidad](#)” from June 6, 2019, promoted by the Comisión Nacional de Derechos Humanos (CNDH).

Finally, it is worth insisting that the LNUF establishes unreasonable criteria for the authorities to use force with a focus on illegitimate, unnecessary and disproportionate control. A law that regulates the use of force in a manner respectful of human rights should establish clear guidelines and comply with the principles of legality, legitimacy, absolute necessity and proportionality, which are not reflected in the LNUF. Significantly, we consider that the National Guard, being a military corporation, should be subject to the highest standards of control, in order to ensure unrestricted respect for human rights.

Other factors that generate a chilling effect on women, young women, and girls, include the general context of militarization, violence, and impunity with which femicides and other forms of gender-based violence are committed throughout the country. Additionally, the official narrative stigmatizes feminists and calls them "conservatives",<sup>8</sup> insinuating that, instead of defending their human rights, the objective of the women's collectives protesting is to destabilize the government. In this sense, the coexistence of the LNUF with the alarming figures of violence against women and the almost absolute impunity with which these crimes are committed in Mexico generates such uncertainty that threatens and deters the advocacy work carried out by women, young women, and girls. For instance, according to the Executive Secretariat of the National Public Security System (SESNSP), from January to August 2021, 692 femicides occurred throughout Mexico<sup>9</sup>. Additionally, in the same period, 1,889 intentional homicides of women were not classified as femicides under the argument that "the gender-based reasons established by law for investigating all violent deaths of women are not being taken into account"; in sum, when both figures are added, the result is 2,581 murders of women from January to August 2021, which amounts to seven murders of women a day across the country.<sup>10</sup>

A clear example of how militarization contributes to State repression of the feminist struggle is the [case of victims of #9N](#). On November 9, 2020, around 80 municipal police officers in Cancun, Quintana Roo, opened fire to disperse a demonstration of at least 2,000 women, who were protesting the multiple femicides perpetrated both at the national and at the local levels. During the police repression, tolerated by the militarized National Guard, lethal weapons were used against demonstrators, resulting in arbitrary detentions, injuries, torture, sexual violence, and attempts of committing extrajudicial killings and fabrication of guilty parties.

In light of this situation, the Mexican Commission for the Defense and Promotion of Human Rights challenged the LNUF before Mexico's Supreme Court. Given the uncertainty that the LNUF produces for human rights defenders, particularly for women, young women, and girls, we believe it is urgent that national and international experts pronounce on the nature of this Law, as well as that the SCJN resolve this matter and other unconstitutionality related to militarization actions that are still pending.

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<sup>8</sup> See, The Guardian, [Amlo ridiculed for saying Mexico's feminist movement began two years ago](#), 29 September 2021, where it quotes the President as follows: "You have to see what's behind it, because two years ago, when the feminist movement began, many women participated. But you started to realize they had become conservative feminists only to affect us, only for this purpose."

<sup>9</sup> Serendipia, [¿Récord de feminicidios en México?](#) Esto dicen los datos, 6 October 2021.

<sup>10</sup> Ibidem. Serendipia.

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Instead of a militarized model jeopardizing the exercise of women's rights, civil society has insisted on the need for a security approach focusing on strengthening civilian institutions and peacebuilding. Only through such an approach will the State be able to guarantee the rights of human rights defenders, including women, youth, and girls who participate in demonstrations and protests.

We hope the information provided above contributes to your important work. Please accept, dear Members of the Working Group, the assurances of our highest considerations.

Sincerely,



Graciela Rodríguez Manzo  
Executive Director