



## Session Report

*Please know you may design the structure of this report to better suit the session. It's important to capture the key outcomes and solutions proposed for the future.*

**Session Title:** The Crisis of Corruption and Impunity in Mexico's Justice System

**Date & Time:** Thursday, 08.12.2022, 5:30 pm – 7:00 pm GMT -5

**Report prepared by:** Dante Preisser Rentería, Expert, Independent

**Moderated by:** Catalina Kühne Peimbert, Executive Director, Impunidad Cero (Mexico)

### Panelists:

- Estefanía Medina – Tojil
- Adriana Greaves – Tojil
- Rodrigo Herranz – Atotonilco Estudio
- Dante Preisser Rentería – Independent Expert

## Share the thematic focus of the session, it's purpose and corruption risks?

Panelists analyzed and reflected on Mexico's priority problems: corruption and impunity. Particularly in the justice system, where a high percentage of crimes, especially those of high impact, such as homicides and femicides, are not solved. The debate focused on the relationship between structural corruption, the perception of security, and the practical results of the crime system since the anti-corruption and justice reforms of former presidential terms, and what specific proposals can be made to stop the security and violation of human rights crisis that prevails in Mexico.

## Summary of panelists' contributions & discussion points (please be as detailed as possible)

### Catalina Kühne – Impunidad Cero

Presentation of Impunidad Cero's research about Impunity in intentional homicide and femicide in 2022.

The research, conducted for the fifth time, aims to use data to highlight the country's crisis of violence and impunity, but from a gender perspective.

Femicide was recently added to the federal criminal code but is not homologated in the same way across all Mexico's subnational criminal codes, which result in a sub-registry of cases.

Only 2 out of 10 murders of women were labeled as femicides in the last year statistics. This despite the Mexican Supreme Court's ruling that all violent killings of women must be prosecuted as femicides.

To do this research IC interviewed public officials from federal and local prosecution offices, as well as experts from civil society.

With all the information collected from those interviews, IC generated and proposed public policy recommendations to improve prosecution of those crimes.

Mexico has one of the highest rates of first-degree murders in Latin America. In 2021 the country registered 27 intentional killings per 100,000 people, which represents 94 killings per day.

On average, about 10 women are killed every day in the country. That is an alarming number. In the research, IC found an interesting phenomenon: from 2018 to 2021 the territorial distribution of homicides and the intensity has shifted, as you can see on the slide.

In the other hand, femicides have significantly increased the last 6 years. From 2015 to 2021 the rate of femicides increased almost by 200%.

IC generated an index. IC submitted FOIA requests to the states' judicial authorities, asking for information on intentional murders and femicides convictions. The Impunity of Intentional Murders and Femicide Indexes are calculated as the percentage of unsolved cases over time.

In the "Cumulative Impunity Index" we estimate impunity levels over a six-year period, during which the new criminal accusatory system has been in operation, while the "Direct Impunity Index" only takes one year into account. IC define impunity as the percentage of first-degree killings and femicides that have not led to a conviction. IC estimated that just 7 out of every 100 intentional homicides in the previous six years resulted in convictions.

With the Index of Cumulative Impunity in Femicide, we found that during the last six years, the impunity rate for femicides was 56.6%, which means that only about 4 out of every 10 offenders were arrested, convicted, and sentenced.

**Estefania Medina and Adriana Greaves – Tojil**

The role of civil society in fighting corruption in Mexico

Results of the Federal Anticorruption Attorney General's Office from 2019 to 2022.

- 111 investigations were prosecuted
- 227 investigations were closed for lack of evidence
- 114 cases not investigated
- 305 were sent to other office

Corruption investigations at the local level:

- Although the 32 states of Mexico must have an Anticorruption Attorney General's Office, to this day two states lack one (Baja California y Baja California Sur).
- Of all the 32 states in Mexico, only the Sonora and Queretaro AAGOs have protocols to investigate and prosecute corruption cases.

Challenges investigating and prosecuting corruption cases in México:

- Lack of autonomy of the Anticorruption Attorney General Offices.
- Absence of a National Public Policy to effectively investigate and prosecute corruption.
- In some cases, lack of funds to the AAGO.
- Lack of institutional professionalization.
- AGGOs political and electoral use.
- There are no clear laws and jurisdictions between the federal AGO and AAGOs.
- Financial investigations are extremely complex
- There is an inefficient application of plea bargains causing impunity in the most relevant cases.
- AAGOs only investigate cases with a criminal complaint.
- AGGOs do not implement undercover operations and controlled deliveries.

Role of the victim in criminal proceedings

- Is an active part of the criminal proceeding
- Can challenge court decisions
- Can challenge prosecutor's decisions
- Can assist within the criminal proceeding
- Can assist at the investigation

International precedents:

- Teodorin Obiang vs. France.
- SERAP from Nigeria.
- Honduras Case—Gualcarque fraud.
- BOTA Foundation Case - Kazajstán.

Tojil presented TEO a virtual lawyer that help citizens to report corruption cases committed by prosecutors and police officers through a chatbot.

#### **Dante Preisser - Independent Expert**

For the NAS to work well the anticorruption reform provided two powerful tools to really transform the way Mexico was facing corruption. Those tools were the National Anti-corruption Policy, and the National Digital Platform. Both of them are in standby.

The idea was to have a national policy to evaluate and monitor the national implementation of the reform.

The first thing is that the legal, institutional and procedural framework was there, and it was a good one. Maybe not the best, for sure perfectible, but useful for anyone that really wanted to use it.

The question should not be if the President likes or not the legal and policy framework of the NAS. The question should be, what are all the institutions, from government, the congress and the judiciary, autonomous bodies and from civil society that works and collaborate at the NAS, doing to prove the president wrong about his idea that the institutions created before him was not doing their job to tackle corruption.

So, the second idea is that every single institution, every single public servant from the federal and local governments, should be held accountable of what they are doing to build a strong NAS.

Why is the NAS not working? I think that there are 3 main reasons:

1. First, the complexity of the legal and institutional framework of the reform and the first steps of implementation became an excuse for everyone to say it was too big or too ambitious to comply.
2. Because collaboration is not working as expected. From the Internal control offices to prosecutors and the audit authorities, we are not creating real and useful channels of collaboration.
3. The third reason is because we are not being smart and creative enough on how to give results. This is happening because we are not understanding the main purpose of the System. There are two main goals to accomplish. First, to improve the capabilities of government to comply with their responsibilities. The second goal is to prevent corruption by closing any possibility for corrupts to gain money and power from government.

Corruption and impunity are not the two faces of the same coin. Corruption is inevitable. Impunity should not be. If Corruption is fed by impunity what we have is a failure State that cannot control itself to protect their own interests.

## **Main outcomes of session (include quotes/highlights and interesting questions from the floor)**

There was an interesting debate around who is the victim of corruption.

Dante Preisser pointed that the State is the real and direct victim of corruption, and the damage that corruption causes to the State, as a body, results in less resources, services, and rights for the people.

Understanding that is important because what we all should be fighting for is to improve the State capabilities to clean itself, no matter the cost, of course always under democratic mechanisms.

That is the link between corruption and impunity, the government real willing to clean itself to comply with its main obligation: provide safety, prosperity, and development.

Estefanía and Adriana recalled some rulings from Mexican courts giving them the quality of victims of corruption cases.

NGO's representation said that they are fighting for citizen being recognized as victims of corruption to help combat impunity.

## **Key recommendations for the future and concrete follow-up actions**

The conversations helped us to put together some public policy recommendations to address the current crisis of impunity from a gender perspective.

Among those recommendations are the following:

- Prevention of gender-based violence.
- Sync up how femicide is defined as a crime in each state.
- Strengthening the criminal investigation capabilities, and
- Focusing on social reintegration.

## **What can be done to create opportunities for scaling up the solutions discussed in the session? And by whom?**

Panelists agreed that we need to embrace our own responsibility to give results.

Law enforcement agencies are struggling from two sides. The government is not giving them the resources and capabilities to work well, and criminal organizations and real factors of power are pushing and pushing generating a context of chaos and disorder.

That is how they survive and grow. By creating the scenario where the government have no power to stop them.

We think that by creating a network of integrity and working together: government, civil society and academia, we will be able to find the right vaccine for Mexican corruption.

## **Is there a specific call to action to key stakeholders, such as governments, businesses, funders, civil society, young people, journalists or any other stakeholder that should be noted? Please specify if relevant.**

Mexico's crisis of impunity is direct cause of corruption. We want all members of Mexico National Anti-Corruption System to work together to comply with the National Anti-corruption Policy and to defend institutions from any authoritarian

measure taken by the government.

**Rapporteur's name and date submitted**

**Dante Preisser Rentería, 9.12.2022**