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Mexico

In 2009 systematic and gross violations of human rights (HR) persisted in Mexico. There are grave concerns for violations of the right to life, an increase of militarization and impunity as well as the criminalization of social movements and human rights defenders.

Between 2008 and July 2009 nearly 14.000 murders were reported in Mexico.¹ Murders and violence attributed to organized crime rapidly increased in the last two years. To combat the organized crime, shortly after taking office in December 2006, President Calderón ordered a large increase in the deployment of military personal. Now up to 50.000 soldiers carry out law enforcement activities although no legal extension of military power has been enacted. The participation of the armed forces in public security tasks has become a de facto state of exception. The Armed Forces perform tasks that are usually exclusively executed by civil authorities, such as receiving accusations of crime from public. Furthermore the military assumed control of a number of police bodies, selecting and naming their leaders, acting as prisons authorities and in general performing operations without effective control by civil authorities.² This situation has led to the committing of serious violations of the human rights of civil population in the extensive militarized areas of the country. There are increasing reports of serious human rights violations, such as enforced disappearance, unlawful and extrajudicial killings, torture, other ill-treatment and arbitrary detention being committed by members of the Mexican military.³

¹ National Human Rights Commission, July 2009.

² Red Nacional de Organismos Civiles de Derechos Humanos ‘Todos los Derechos para Todas y Todos’: Information presented by organizations forming part of the Red Nacional de Organismos Civiles de Derechos Humanos ‘Todos los Derechos para Todas y Todos’ (National Network of Human Rights Civil Organizations ‘All Rights to All’) to the UN Human Rights Committee for consideration as part of its fifth periodical report on Mexico pursuant to Article 40 of the International Covenant on Civil and Political Rights. UN Human Rights Committee 98th Session (8-26 March, 2010) New York.

³ Amnesty International (2009): Mexico new reports on human rights violations by the military.

In the state of Guerrero the cases of military abuses have multiplied exponentially. Statistics from the Human Rights Commission in Guerrero (CODDEUM) indicate that over the last eight months 125 complaints have been registered, while in 2008 only 35 files were opened. It is important to highlight that 18 out of the total number of quoted cases have been declined to military courts. Among them the case of Inés Fernández Ortega and Valentina Rosendo Cantú, two Me'phaa indigenous people from the municipality of Ayutla de los Libres, Guerrero who have been raped by soldiers of the Mexican Army in March 2002. The two women were forced to seek recourses through the Inter-American System due to the lack of access to justice in Mexico.

Another example took place in the state of Chihuahua. Staff of the National Commission of Human Rights (CNDH) confirmed that people were deported from their homes, transferred to military installations. Furthermore they were held imprisoned for up to 15 days and tortured with beatings, electric shocks, submersion in water and covering their heads with plastic bags etc.⁴

Even if the military justice system continues to investigate and try military personnel accused of human rights violations, the system itself lacks of independence and impartiality and denies victims and their relatives access to justice. This access is a key obstacle to ending impunity for human rights violations. In June 2009 the state affirmed that 'the decisions of military courts and the Supreme Military Tribunal can be brought before civil courts through use of 'juicio de amparo', by which tribunals of Judicial Power of the Federation can determine in the highest level of jurisdiction of acts of authority resulting from the application of the Military Code of Justice.'⁵ However, the truth is, that victims of human rights violations are not able to appeal the decisions issued by military courts before civil authorities, except for a couple of instances, like for example the question of reparations. Only militaries accused of the crime have the legal right to make such an appeal to civil courts. Obviously they have no interest in seeking a sentence outside the military justice system.

Both, civilian and military authorities frequently fail to investigate reports of human rights violations in a prompt, impartial and effective manner in order to ensure those responsible are brought to justice in accordance with national law and international human rights law.⁶ Between 98% and 99% of all crimes stay with impunity.⁷ Also the grave human rights violations in the context of the social conflicts in Oaxaca 2006 and 2007 as well as in San Salvador Atenco 2006, which included among others extrajudicial killings, arbitrary detention and torture by members of the security forces haven't been prosecuted.⁸

Mexican authorities are failing in their duty to protect human rights activists from killings and life-threatening harassment and attacks. Between 2007 and 2009 at least 15 cases of human rights defenders who have suffered killings, attacks, harassment, threats and imprisonment on fabricated charges to prevent them from doing their work were reported. In none of the cases included in the Amnesty International Report, a full investigation has been carried out.⁹ On

⁴ The National Ombudsman for Human Rights, Jose Luis Soberanes Fernández, cited in: <http://www.jornada.unam.mx/2008/07/16/index.php?section=politica&article=019n1pol>

⁵ Report of the Universal Periodic Review Working Group: Mexico: Addition: Opinions on the conclusions and or Recommendations, Voluntary Commitments and Replies Presented by the state under Examination, June 2009.

⁶ See also recommendations in the 'Report of the Working Group on the Universal Periodic Review – Mexico'; Human Rights Council; Eleventh session; Agenda item 6; 3 March 2009; A/HRC/11/27.

⁷ José Luis Soberanes, Comisión Nacional de Derechos Humanos: Segundo Informe sobre Seguridad Pública (diciembre 2008).

⁸ More information about Oaxaca: Informe de la visita de la Comisión Internacional de Juristas' y la 'Obra Diacónica Alemana' a Oaxaca, México; 2007. More information about Atenco: <http://www.amnesty.org/en/region/mexico/report-2008>

⁹ Amnesty International (2010): Standing up for justice and dignity: Human Rights Defenders in Mexico, London.

February 13, 2009, human rights defenders Raúl Lucas Lucía and Manuel Ponce Rosas, President and Secretary of the Organizations for the Future of the Mixteca People (OFPM) were forcibly detained and disappeared by individuals claiming to be police during a public event in the state of Guerrero. Their bodies were found three days later with visible signs of torture. To date no advance has been made in the investigation of their case. Since the execution of Raúl Lucas and Manuel Ponce on April 9, 2009, the Inter-American Court of Human Rights issued urgent measures in the cases of 108 human rights defenders in the state of Guerrero. To date, harassment and threats continue against members of organisations for the defence and promotion of human rights. All current preliminary investigations of aggressions against and killings of human rights defenders at the state and federal levels are characterized by unjustified delays, like in the case of Obtilia Eugenio Manuel in the Guerrero State.¹⁰

The climate of criminalization of social protest has intensified as well as criminal accusations against human rights defenders who are imprisoned and face one or many proceedings. This is the case of Raúl Hernández Aundio, member of OPIM in Guerrero and of Ignacio del Valle Medina, Felipe Alvarez Hernández and Héctor Galindo Gochicoa, leaders of a local protest movement in San Salvador Atenco, Mexico State. There is serious concern about the fairness of trial and sentence.

We call on the Council to recommend to the State of Mexico:

- To withdraw the Armed Forces from public security tasks.
- That the civil authorities investigate immediately and seriously all complaints lodged concerning human rights violations committed in the context of militarized operations; and that the state guarantees all victims of these violations comprehensive and fair indemnity.
- The state cease to apply military jurisdiction in human rights cases, transfer all corresponding cases currently open to civil jurisdiction; reopen under civil jurisdiction the relevant investigations archived by the Military Public Prosecutor; and perform the necessary modifications to the Code of Military Justice to explicitly exclude these cases from the power of military authorities for law enforcement and implementation.
- That Mexican federal, state and municipal police officers involved in serious human rights violations, such as arbitrary detention, torture, rape and unlawful killings, particularly those committed during civil disturbances in San Salvador Atenco in 2006 and in Oaxaca City in 2006 and 2007, are investigated and brought to justice.
- To investigate all allegations of harassment and intimidation of human rights defenders looking at the overall patterns of incidents and not treat each one of them in isolation.
- To take effective steps to guarantee human rights defenders the right to carry out their legitimate work without fear of reprisals and develop the National Human Rights Programme, which was adopted in August 2008 by presidential decree, in protection of human rights defenders.

¹⁰ Ibid.