



Press Release

Mexico City, June 25, 2009

Mexico's Supreme Court has the chance to strengthen civilian control over its Armed Forces:

Judgment pending on the limits of military jurisdiction in Mexico

- *In coming weeks, Mexico's Supreme Court (SCJN) will resolve a case under its revision (989/2009), in which it is argued that military jurisdiction should not be used to investigate and prosecute cases in which civilians have suffered human rights violations at the hands of members of the armed forces.*
- *26 human rights organizations from 13 countries of the region, The International Human Rights Clinic of Harvard Law School and the International Commission of Jurists have respectively submitted three amicus curiae documents to the Mexican Supreme Court in the case of Santiago de Caballeros. These specialist legal documents affirm before the SCJN that international law prohibits the application of military jurisdiction to cases of human rights violations.*

Center Prodh and FUNDAR (Centro de Investigación y Análisis) today publicly presented the case that is being litigated before Mexico's Supreme Court which is awaiting a binding resolution from the First Chamber. The case relates to human rights violations committed in March 2008 in the northern state of Sinaloa when 4 civilians were arbitrarily deprived of their lives by members of the armed forces.

The legal representatives of the non-governmental organizations involved outlined that the resolution of the case, which is currently in the hands of Justice José Ramón Cossío, has the historic possibility of defining the limits of military jurisdiction in Mexico and determining whether its use is in line with the Mexican Constitution and the international human rights treaties that Mexico has signed and ratified.

Luis Arriaga – of Center Prodh – and Luis Miguel Cano – of FUNDAR, both emphasized the fact that Mexico's Supreme Court has a historic opportunity to strengthen civilian control over the Army. They outlined that the investigation and prosecution by military authorities of abuses committed by members of the very same armed forces contravenes Mexico's international human rights obligations under international treaties ratified by the State.

The human rights defenders present underlined the importance of an imminent judgment of the Supreme Court given the current situation in Mexico, including figures from the National Human Rights Commission (CNDH) that show that complaints of human rights violations on the part of the armed forces have increased by 600% in the first two years of the administration of Felipe Calderón. In addition, they made mention of the fact that Mexico recently appeared before the UN Human Rights Council in Geneva (under the UPR process) to confirm and defend the use of military jurisdiction in Mexico. This pronouncement by the government shows the lack of will to approach this issue and the need to take the problem to the highest courts of the country.

In relation to the resolution of the case, three specialist documents from jurists and institutions with legal expertise, known as *amicus curiae*, have been submitted to the First Chamber of the Supreme Court

under the case of a legal challenge, or *amparo*, number 989/2009. These *amicus curiae*, prepared by third parties external to the case at hand that are familiar with the theme of human rights, all combine to convincingly prove that international law completely prohibits the extension of military jurisdiction to include cases that include presumed human rights violations. The practice of *amicus curiae* (literally meaning “friend of the Court”) is part of a long-standing tradition in which persons or organizations, in their work as specialists, provide an opinion directed to the Court that is considering a jurisprudential problem, in order to assist as aids to its analysis. Regarding these specialist opinions, Luis Arriaga made reference to the following documents:

- 1) The International Clinic of Human Rights of the Law Faculty of Harvard University submitted an *amicus curiae* that explains that the Inter American Court of Human Rights, the highest jurisdictional authority on the interpretation of the Inter American Convention on Human Rights and organ with binding judgments, has established that “military criminal jurisdiction is not the competent jurisdiction to investigate and, if applicable, prosecute and punish the perpetrators of human rights violations¹”
- 2) The International Commission of Jurists (ICJ) presented an *amicus curiae* document where it reiterates the obligations of the Mexican State under the International Covenant on Civil and Political Rights (ICCPR), which limits the competence of military courts to internal offences against military discipline, that is to say, military courts must not be responsible for investigating and prosecuting human rights violations. This legal requirement is completely overlooked by Mexico’s Code of Military Justice. The ICJ also outlines the conclusions in this respect reiterated by the UN Human Rights Committee, a treaty body of the United Nations.
- 3) Finally, 26 organizations and university human rights clinics from 13 countries in Latin America submitted an *amicus curiae* which highlights the vital role of the Judicial Branch in a number of countries throughout the region in limiting the reach of military jurisdiction so that, among other issues, human rights violations are excluded from this jurisdiction. The document was prepared by three prominent organizations of the region: The Colombian Commission of Jurists, the Center for Legal and Social Studies (CELS) of Argentina and the Institute for Legal Defense (IDL) of Peru.

Center Prodh and FUNDAR agreed that the presentation of these documents demonstrates the international interest that has been and continues to be directed to this case, which was initiated by family members of the victims of the human rights violations occurred.

Finally, Center Prodh and FUNDAR reiterate that the Supreme Court has the historic opportunity to interpret Article 13 of Mexico’s Constitution according to human rights standards. We exhort the Court to take into account the applicable instruments and allow for the interpretation that most favors persons affected and the respect for human rights.

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¹ Case of la Masacre de la Rochela vs. Colombia, Corte IDH (ser. C) No. 163, párr. 200 (2007).

The International Human Rights Clinic of Harvard Law School is an academic institution with a practical approach that brings together professors, students and human rights specialists. The Clinic has carried out numerous judicial actions of public interest throughout the world and has taken action in cases in which legal definitions or the interpretation of fundamental rights have been in question.

The International Commission of Jurists is composed of 60 eminent jurists that come from different juridical systems of the world that are dedicated to the coherence, primacy and implementation of International Law. The Commission has its base in Geneva and has a network of autonomous national section and organizations affiliated in different continents.

The Colombian Commission of Jurists, the Center for Legal and Social Studies (CELS) of Argentina and the Institute for Legal Defense (IDL) Peru are all organizations with more than 20 years of experience in the defense and promotion of human rights and the strengthening of democracy. All three organizations have an important presence in national affairs and also work at an international level for human rights promotion.

All amicus curiae (in Spanish), can be accessed on the website of the Miguel Agustín Pro Juárez Human Rights Center: www.centroprodh.org.mx

Complete list of signatory organizations to *amicus curiae* presented by Latin America organizations:

1. Centro por la Justicia y el Derecho Internacional (CEJIL) (organización regional)
2. Centro de Estudios Legales y Sociales (CELS), Argentina
3. Clínica Jurídica de Interés Público Córdoba, Argentina
4. Oficina Jurídica Para la Mujer de Cochabamba, Bolivia
5. Justiça Global, Brasil
6. Comisión Colombiana de Juristas, Colombia
7. Comisión Ecuémica de Derechos Humanos (CEDHU), Ecuador
8. Clínica de Derechos Humanos, University of Texas at Austin School of Law, Estados Unidos
9. Due Process of Law Foundation / Fundación para el Debido Proceso Legal (DPLF), Estados Unidos
10. Fundación para la Justicia y la Defensa de los Derechos Humanos (FUNJUDEH), Guatemala
11. Comité para la Defensa de los Derechos Humanos en Honduras (CODEH), Honduras
12. Abogadas y Abogados para la Justicia y los Derechos Humanos A.C., Ciudad de México
13. Centro de Derechos Humanos "Fray Francisco de Vitoria, O.P." A.C., Ciudad de México
14. Centro de Derechos Humanos de la Montaña Tlachinollan, Guerrero, México
15. Centro de Derechos Humanos Victoria Diez A.C., Guanajuato, México
16. Centro de Justicia para la Paz y el Desarrollo A.C. (CEPAD), Jalisco, México
17. Colectivo Contra la Tortura y la Impunidad A.C., Ciudad de México
18. Comisión Ciudadana de Derechos Humanos del Noroeste A.C., Baja California, México
19. Grupo de Mujeres de San Cristóbal Las Casas A.C. (COLEM), Chiapas, México
20. Instituto Mexicano de Derechos Humanos y Democracia (IMDHD), Ciudad de México
21. Programa de Derechos Humanos de la Universidad Iberoamericana Ciudad de México
22. Centro de Iniciativas Democráticas (CIDEM), Panamá
23. Coordinadora de Derechos Humanos del Paraguay (CODEHUPY), Paraguay
24. Coordinadora Nacional de Derechos Humanos, Perú
25. Instituto de Defensa Legal (IDL), Perú
26. Fundación Étnica Integral (LA FEI), República Dominicana