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Human Rights in Mexico

Bulletin, Issue 35, December 2008

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This August marks three years in prison for Jacinta Francisco Marcial, indigenous woman falsely accused of kidnapping six armed federal agents. The case against her is so riddled with irregularities and hard to believe that intense public interest and support for Jacinta has been generated. On August 18 Amnesty International officially named Jacinta Prisoner of Conscience, a title which recognizes the vulnerability of Jacinta's situation and the discrimination against her as a poor indigenous woman.

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Violence against migrants in Mexico

Human rights organizations in Mexico recently came together to express their concern for the impunity that has been tolerated and even generated by the Mexican government which has allowed for actions of criminal organizations that systematically kidnap migrants on their way to the US. Kidnappings and ransoms of migrants are on the rise at the same time as networks of crime and trafficking collude with state officials such as police.

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Checks and imbalances: Mexican Supreme Court gives green light to impunity

Faced with an Executive Branch that publicly asserts that Mexico's security forces have not committed a single human rights violation that has remained in impunity and a Legislative Branch whose lack of interest in human rights is demonstrated by its lack of action on the subject, it is more vital than ever that Mexico's judiciary act as an independent governmental power capable of guaranteeing the basic legal rights of Mexicans and acting as a counterbalance to the other branches of government.

Yet recent events demonstrate that the Supreme Court, far from protecting victims against violations of their rights, avoids at all costs making decisions that would challenge the actions of the Executive when it comes to violations of the rights of Mexico's residents.

The most jarring demonstration of the Supreme Court's failure to fulfill its role came on Monday, August 10, 2009, when the Court rejected *amparo* legal action 989/2009, in which victim Reynalda Morales challenged the constitutionality of Mexico's Code of Military Justice. This Code establishes that military authorities investigate and try human rights violations committed against civilians – in other words, the Code permits the military to act as its own judge and prosecutor when it is accused of human rights violations. The Supreme Court case arose from the arbitrary execution of four civilians in Sinaloa state in 2008 and was brought to the Supreme Court by Center Prodh, the Sinaloa Civic Front, and Fundar Center for Investigation and Analysis.

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Editorial

Access to (In)justice for Indigenous Peoples in Mexico: 3 years of suffering for Jacinta Francisco Marcial, Prisoner of Conscience

Background: 3 years of injustice for Doña Jacinta:

August 3 2009 marked the third anniversary of the illegal detention of Jacinta Francisco Marcial, Alberta Alcantara and Teresa Gonzalez, ñhã-ñhú (otomi) indigenous women who were falsely accused of having kidnapped six agents of the former Federal Investigation Agency (AFI) during an incident in the community of Santiago Mexquititlan, in the municipality of Amealco, in Queretaro.

The incident took place on March 26, 2006, when local merchants of the street market in Santiago Mexquititlan, many of whom work in the informal sector precisely due to the adverse effects of current economic policies for the most vulnerable groups in Mexico, protested against the arbitrary confiscation of their goods by the federal agents of the former AFI, who had begun to confiscate merchandise without presenting identification or a warrant to justify their behavior. On 3 August 2006, that is four months after the incidents in the street-market, Jacinta was detained by police officers that came to her home without carrying any uniforms or the proper identification; Jacinta was told to go with them to the police station as they needed her statement on the case of the illegal felling of a tree. As she knew she had nothing to do with any crime, she agreed to go; the police agents told her and her family that the whole thing would not last more than a few hours, and that Jacinta would be back home that same day. When she arrived at the police station she was publicly presented before the media as a dangerous kidnapper, who together with other two women, had kidnapped six armed and trained federal investigation agents. She has not returned back home since then.

The PGR fails to live up to its mandate: The recommendation of the National Human Rights Commission:

On 17 July 2009, Mexico's National Human Rights Commission (CNDH) emitted its recommendation 47/2009 to the Federal Attorney General's Office (PGR), stressing that the due process rights of Jacinta as well as the other two accused women, Alberta and Teresa, were violated. The PGR's deadline to accept or decline the recommendation was 7 August 2009 however it did not make any official or unofficial statements in response to the recommendation. This attitude clearly shows the PGR's disdain for proper investigation and prosecution in such cases. In rejecting or

overlooking the CNDH's recommendation together with several calls made by NGOs, public and governmental organisms and citizens that express their indignation for the injustice in Jacinta's case, the PGR has exhibited itself as an institution that is incapable of living up to its mandate, being an obvious instrument for political negotiation and denial of justice.



Amnesty International public ceremony names Jacinta prisoner of conscience

As Jacinta's legal defense, represented by the Fray Jacobo Daciano Center and Center Prodh, have maintained, there is no doubt that Jacinta Francisco Marcial is innocent, as was plainly demonstrated during the presentation of evidence in May 2009 in her re-trial in Queretaro. We know, however, that despite the fact that Jacinta did not participate in the community's protest, her case is part of a pattern in which authorities use the judicial system – with serious deficiencies that disproportionately affect those commonly discriminated against for their ethnic, gender or economic condition – as an instrument to punish entire communities that, demanding respect for their rights, challenge abuses by authorities. The invariable deficiencies presented in the current criminal justice system, suffered by any person that has to face a criminal process, are felt more severely for those whom, as Jacinta and the co-accused women of this case, face this process as subjects of discrimination and marginalization. Furthermore, there are two particular circumstances that aggravate their situation: first, facing the legitimate claims to improve the

public security situation in Mexico, the government has resorted to populist measures, such as harshening sentences, the establishment of new definitions for crimes, or the montage of spectacular security operations. However, these measures do not discourage criminals from committing crimes. Rather, this iron fisted strategy has affected those who have been convicted for crimes that never happened, such as Jacinta, Teresa and Alberta; a very common practice in the Mexican justice administration system. Second, the grave deficiencies of such a system criminalize social protest, giving exemplary punishments to those who oppose the authorities' abuses and arrogance, or sanctioning those who demand their rights. It is completely unjustifiable to use the justice system in such a partisan and frivolous way.

Jacinta named Prisoner of Conscience by Amnesty International:

For all these reasons that make Jacinta particularly vulnerable to the very same justice system that should protect her rights, on 18 August 2009, Jacinta Francisco Marcial was named Prisoner of Conscience by Amnesty International. A prisoner of conscience can be referred to a person who has been imprisoned because of her/his political beliefs, ethnicity, religion, race, language, sexual orientation, economic or social conditions, as long as she/he has not used or advocated for the use of violence. There are currently 80 Prisoners of Conscience as named by Amnesty International throughout the world and 2 in Mexico, including Jacinta. "Jacinta's case is a scandal," said Rupert Knox, Mexico Researcher at Amnesty International. "This is a travesty of justice and a clear example of the second class justice Indigenous People often receive in Mexico." "Jacinta's story shows how the Mexican criminal justice system is being misused to unfairly prosecute the most vulnerable. She has been targeted because of her ethnicity, gender and social status," said Rupert Knox.

Conclusions:

Certain of Jacinta's innocence, Center Prodh is committed to use all the available recourses in order to put this injustice, which is extended to her family and to the entire community, to an end. The adoption of Jacinta as a Prisoner of Conscience endorses our claim for justice. With this support, together with the solidarity of activists from all over the globe, journalists, organizations and artists, Jacinta, her family and Center Prodh's energy is renewed to continue the struggle; we will not stop until Jacinta is free. Reason, justice and, moreover, truth, are on our side.

Final note:

We reiterate, on the occasion of the third anniversary of Jacinta's imprisonment, that it is now time to put the abuses committed against her to an end by acquitting and releasing her. To help ensure that this occurs, we call on the national and international community to maintain their attention on this case and to demand that the authorities respect the victims' human rights.

Go to this web site to ask the Mexican authorities for the immediate and unconditional release of Jacinta: <http://alzatuvoz.org/jacinta/en/>



Estela, Jacinta's daughter and
Don Guillermo, Jacinta's husband

Violence against migrants in Mexico

Background:

On August 22-24 an urgent meeting was convened by NGOs for the defense and promotion of migrants' human rights in order to analyze the dire situation and increased risks including violence and kidnapping faced by migrants crossing through Mexico, mostly on their way to the United States, and the added and inherent risks that this situation has implied for migrants' human rights defenders.

The organizations present stressed that the impunity that has been tolerated and even generated by the Mexican government has allowed for actions of criminal organizations that systematically kidnap migrants on their way to the US. This is a new kidnapping category that is characterized by the capture and isolation in unofficial detention facilities or private buildings and subsequent use of methods of torture to gather information in order to locate their relatives whom often are already living in the US, in order to claim

ransom money. On average, the kidnappers ask for some \$2,500USD. If the criminals do not locate the migrants' relatives or the relatives cannot or will not pay the asked amount of money, the victims are on some occasions murdered. Only in a few cases are migrants who have been kidnapped able to escape from their captors.

The most recurrent objective of these kinds of crimes is sexual or labor exploitation, and trafficking of human organs. Among the victims often are pregnant women and children. Sexual violence and rape serves as common threats in order to gather information from women; unfortunately in many cases there threats are, in fact, carried out.

Data from the CNDH:

Mexico's National Human Rights Commission's (CNDH) *Special Report on the cases of kidnapping against Immigrants*, which was mostly carried

out with information from civil society organizations, stresses the alarming fact that these operations involve the active participation of members of public security forces - in municipality, state and federal levels - either to perform kidnaps themselves, and/or to protect the kidnappers.

According to CNDH's Report and the shared testimonies of the NGOs convened for the mentioned meeting, more than 9,750 migrants have been kidnapped from September 2008 to February 2009. These numbers show us that there are approximately 400 incidents of kidnapping, involving some 18,000 victims each year, who are often from countries in Central America. The states in which this phenomenon is more likely to occur are Veracruz and Tabasco.

There have been cases, such as the one of the *Immigrant Shelter Hermanos en el Camino* (Brothers and Sisters on the Road) in Ixtepec, Oaxaca, in which armed groups have raided the shelter in order to threaten migrants, endangering not only the integrity of



Risking their lives, migrants pass through Mexico on top of freight train routes

the migrants themselves, but also the ones of the human rights defenders working to improve migrants' conditions in their transit through Mexico.

This phenomenon has been stressed to governmental authorities however there has been virtually no response from them, who have gone so far as to minimize the problem. Mexican authorities are mostly indifferent to the migrant phenomenon in Mexico to such a point that the last appearance of the Immigration National Institute (INM) Commissioner before the Congress had to be cancelled due to the limited presence of members of Congress in the hearing.

The violation of migrants' human rights at the hands of the Mexican government is not longer limited to the criminalization of these groups of people, for whom it is impossible to approach the authorities in order to start any administrative procedures, to file a complaint, to denounce a crime or to present a formal law suit, due to the persistent risk of being deported. In addition, the failure of authorities extends to the lack of protection given to migrants in their transit through Mexico.

The proper mechanisms for access to justice for migrants do not exist in Mexico; not to mention the non-existence of mechanisms for reparation for migrants victims of kidnapping.

The vicious cycle of impunity in their cases and the systematic violation of their human rights are worsened by their situation of vulnerability, which comes from their situation of poverty, mobility, and due to the constant persecution against them on part of the authorities, organized crime and gangs.

Conclusions:

Mexican human rights organizations also stress the need to establish real and efficient actions to combat organize crime, in order to sanction all the actors involved, including public security agents. Carrying out exhaustive investigations is crucial in all the pertinent governmental institutions in order to avoid impunity among their members and to execute criminal proceedings against both the direct perpetrators and the intellectual authors for the crime of kidnapping.

The Federal Legislative Power must pass comprehensive reform in the State's migration policies with a human rights focus in order to stop the criminalization of the migrant individual. The current situation of migrants in Mexico relies on necessary participative solidarity from both the international and national community, in favor of a common cause: the full respect of migrants' human rights on part of the Mexican government, in accordance with the highest national and international human rights standards.



Human Rights Defenders at Risk: the situation in Oaxaca as emblematic of a general phenomenon in Mexico

Introduction:

In recent years the vulnerability of human rights defenders in the state of Oaxaca has become more pronounced and the risks they face more serious.

The generalized context of human rights violations includes factors such as violence, authoritarianism, repression, marginalization and poverty which are only made more acute by the lack of political will to deal with them and to attend to the wider social demands of a population that no longer identifies with the government. Oaxaca is emblematic of the wider problem in Mexico, which has witnessed a worsening situation for human rights defenders in recent years: in 2008, Mexico was ranked third among countries in the world that received the most number of communications from the UN Special Rapporteur on Human Rights Defenders.

The current governor of Oaxaca, Ulysses Ernesto Ruiz Ortiz, has gained a reputation for his repressive approach that includes harassment, intimidation and political persecution against different social leaders, political activists, journalists, media outlets,

community organizers and human rights defenders. As is well known, 2006 saw the unleashing of a wave of violence in which the state government and its officials were active agents in the creation of a general social conflict that meant a crisis for civil and political rights and the rule of law. Human rights defenders have been particularly targeted in this hostile context: for the simple acts of letting others know of their rights and defending basic guarantees, they have been victims of multiple aggressions against their personal integrity and safety.

Impunity:

There have been no serious investigations, not to mention sentences, for the human rights violations involving police, the army, paramilitaries and other state agents occurred in 2006 or its aftermath. One example is the situation of politically motivated forced disappearances in the state, which resulted in a recommendation from the National Human Rights Commission number 07/2009 in two of these cases (Edmundo Reyes Amaya and Gabriel Alberto Cruz Sánchez, case defended by the Limeddh Oaxaca), which subsequently received a negative response from the municipal and state governments, declining to accept the recommendation. Another emblematic case of impunity is that of indigenous *triqui* women Virginia and Daniela Ortiz Ramírez, disappeared on 5 July 2007, and of the two radio broadcasters Teresa Bautista Flores and Felicitas Martínez Sánchez, murdered on 7 April 2008. The situation of impunity has created a general climate of distrust in state authorities, above all given the blatantly evident bias of judges in favor of the orders of the executive branch.

Second National Meeting of Human Rights Defenders and Family Members of Political Prisoners and Prisoners of Conscience

More than twenty human rights organizations and groups from different parts of Mexico convened on August 7 and 8 to participate in the “2nd National Meeting of Human Rights Defenders and Family Members of Political Prisoners and Prisoners of Conscience”.

The meeting, organized by the Solidarity Network Decade Against Impunity (Red Solidaria Decada Contra la Impunidad), the Iberoamerican University of Mexico City and the Miguel Agustín Pro Juárez Human Rights Center, also saw the participation of the representative of the United Nations Office of the High Commissioner for Human Rights in Mexico, Alberto Brunori, the Bishop of the Dioceses of Saltillo, José Raúl Vera López, the chairperson of the UN Working Group on Enforced or Involuntary Disappearances, Santiago Corcuera, and the Fourth Visitor of the Human Rights Commission of the Federal District of Mexico, É Alejandra Nuño.

Among the topics discussed were the lack of an effective commitment by the Mexican State to fulfill its human rights obligations, putting them into practice; the militarization of country and the impossibility for civilian courts to try members of the armed forces for human rights violations, and the exposure of human rights defenders to the new threat posed by the organized crime.

Of particular gravity, as denounced by several human rights groups, is the lack of protection and criminalization of human rights defenders by Mexican authorities which leads to arbitrary detentions, torture, forced disappearance and assassination, especially within indigenous communities.



Criminalization of Social Protest:

Oaxaca is one of the states of Mexico most known for its grave situation of criminalization against members of social organizations, who have faced harassment, intimidation and persecution and have been threatened or imprisoned with the aim of putting down social demands of these organizations that have instead been forced to concentrate their energy in the liberation of political prisoners.

Documentation and mapping of aggressions against human rights defenders in Oaxaca:

Center Prodh, with a temporary presence through an office based in Oaxaca, has observed the situation of human rights defenders during 2008 and 2009. We have worked together with other organizations to carry out a survey of 17 human rights defense organizations. Of these 17, only three had not been subject to harassment or threats during this period. In the majority of cases the aggressor in these acts are state agents or groups related to the state government. In addition, trends and changes have been noted during this period: the police doubled in the number of mentions listed as aggressor (from 6 to 12), as well as

the increasing activity of media outlets registered as sources of harassment against human rights defenders. In addition, new and unknown aggressors have emerged, as well as the Army playing an increasingly important role in these aggressions. It is interesting to note that in none of these cases was organized crime or criminal groups listed as the aggressor, despite the fact that this issue is

currently the number one security concern in our country.

More than half of the aggressions against human rights defenders occur in the various regions of Oaxaca. When asked where the greatest areas of risk in the state were, 16 groups responded that the rural regions were of greatest risk, and only one organization responded that the city of

Oaxaca presented the greatest risk. Organizations mentioned that many of these aggressions result from conflicts between different interest groups, where human rights defenders are caught in the middle. Social conflicts emerge when a community or group of persons does not agree with the interests or plans of the authorities or power groups. In this context, human rights defenders who try to help resolve and accompany communities in their problems have been subject to attacks, threats and harassment.

Conclusions

The situation of human rights defenders in Oaxaca is of grave concern, as they live in a situation of vulnerability without guarantees for their protection or security. Despite the fact that the international community continues to recognize the legitimacy and importance of their work, state authorities continue to persecute and criminalize their actions.



Public protest against Governor Ulises Ruiz in Zaachila, Oaxaca

Mexico Before the Inter-American Court of Human Rights: a Chronology

Since deciding its first contentious case in 1988, the Inter-American Court of Human Rights has resolved more than 100 cases against States throughout Latin America and the Caribbean. Yet only two of these cases involve Mexico, one of which never reached the merits stage. Now, as a series of cases involving Mexico come before the Court, this long phase of under-representation of Mexican human rights cases before the Court is poised to come to an end.

The first Inter-American Court case involving Mexico was *Martín del Campo Dodd v. Mexico*, decided in 2004. The case involved the use of torture by police to obtain a confession, a violation paradigmatic of the modus operandi of numerous members of Mexico's police forces. Unfortunately, the Court declined to consider the merits of the case, deciding that the alleged violations had ended before Mexico formally accepted the Court's jurisdiction. It would not be until 2008 that the Court issued a merits judgment against Mexico: this was the case of *Castañeda Gutman*, in which the Court ruled that Mexico was obligated to provide a legal avenue by which individuals could challenge alleged violations of their right to run for public office.

Following these relatively scarce appearances before the Court, Mexico now faces a series of cases in which it must answer to this highest body of

the inter-American human rights system. The Court is currently considering several cases against Mexico, with various others poised to come before it in the next few years. These cases embody several of the most grave and emblematic human rights violations facing Mexico today.

The first of these is the *Campo Algodonero* or Cottonfield case, which arose from the murder of a group of young women in Ciudad Juárez, Chihuahua state, in 2001. These deaths and the State's failure to carry out serious investigations to identify and punish the perpetrators fit within the pattern of murders known as feminicides, gender-related killings of women and girls. The Inter-American Court, which held a public hearing in the case in April 2009, will soon issue a sentence regarding this grave problem. The case was brought to the inter-American system by the NGOs Non-Violent Citizen Network for Human Dignity, National Association of Democratic Lawyers, Latin American and Caribbean Committee for the Defense of Women's Rights, and the Center for the Integral Development of Women.

The second new case before the Court is *Rosendo Radilla Pacheco v. Mexico*, defended by the Mexican Commission for the Defense and Promotion of Human Rights and the Association of Relatives of Detainees, Disappeared Persons, and Victims of Human Rights

Violations in Mexico (AFADEM). This case involves the forced disappearance of a community leader in 1974 within the framework of Mexico's Dirty War, an era whose hundreds of forced disappearances and other State-perpetrated crimes remain unpunished. The case also challenges the fact that military authorities assumed competence over the investigation of the victim's disappearance, rather than civilian authorities. Following a public hearing in July 2009, the Court is analyzing the arguments of the case, which present it with the opportunity to apply its existing jurisprudence regarding impunity and military jurisdiction to Mexico.

A third case recently submitted to the Inter-American Court is that of *Inés Fernández Ortega*, concerning the rape of an indigenous Me'phaa woman in Guerrero state by members of the military in 2002. This case symbolizes the sexual violence committed by soldiers against Guerrero's indigenous population, as well as the impunity generated for such violations by the military justice system. The case is defended by the Organization of the Tlapanec (Me'phaa) Indigenous People, Tlachinollan Human Rights Center, and the Center for Justice and International Law (CEJIL).

It bears mention that the Inter-American Commission has also been analyzing the merits of another case



of rape committed by soldiers against an indigenous girl in Guerrero in 2002: this is the case of *Valentina Rosendo Cantú*, brought to the inter-American system by the Organization of Mexteco and Tlapaneco Indigenous Peoples, Tlachinollan, and Center Prodh.

A final case poised to come before the Inter-American Court is that of the environmental defenders *Teodoro Cabrera and Rodolfo Montiel*, defended before the inter-American system by family members, Center Prodh, the Sierra Club, Greenpeace International, CEJIL, and Tlachinollan. This case, on which we have reported to readers in earlier editions and will continue to provide updates in the months to come, involves the arbitrary detention, torture, and unjust imprisonment of the two victims in retaliation for their work to defend forests in Guerrero against illegal logging in 1999. The case will present the Court with a paradigmatic example of how State authorities criminalize and repress human rights defenders, such as the victims, two *campesinos* who led an organization founded to defend the forests and who have received numerous international prizes for their environmental work. While the facts of this case began ten years ago, the underlying issues of repression of human rights defenders, torture, environmental destruction, and once again, the illegal use of military jurisdiction to investigate human rights crimes, are all key issues facing Mexico today. As with all the cases mentioned above, the specific victims of this case and their families continue to wait for justice and reparations for the violations committed against them.

Rodolfo Montiel
and
Teodoro Cabrera:
Case pending before the
Inter American Court
on Human Rights



Editorial Continued

Despite well-founded arguments by a minority of the justices – as well as a vast body of international jurisprudence, empirical evidence of the role of military jurisdiction in maintaining impunity, and the experience of the victims in this concrete case – the majority of the Supreme Court refused to enter into an analysis of the merits of the case. Instead, the Court declared that victims of human rights violations simply have no legal standing to challenge the application of military jurisdiction to their cases. This decision, which came after Mexico's Minister of the Interior personally visited the Supreme Court justices about this case, cancels all possibilities for victims of military human rights violations to avoid the processing of their cases by military authorities and eliminates all domestic remedies that could protect the victims' rights to due process and an independent judicial process.

The Court has thus sent a clear message of support for the current system of military jurisdiction, which generates impunity for military human rights violations including torture, arbitrary execution, rape, and forced disappearance.

This green light given to impunity recalls the Supreme Court's evaluation earlier this year of the grave human rights violations committed in San Salvador Atenco in the state of Mexico, involving mass arbitrary detention, two deaths, sexual torture committed against dozens of women, and generalized violence and brutality unleashed by a force of approximately 2500 federal and state police agents. In its much-awaited evaluation of the Atenco case, the Court acknowledged the existence of violations but refused to point to any government officials as responsible, despite evidence linking high-ranking officials such as Attorney General Eduardo Medina Mora to the violations.

It is worth mention that the Supreme Court also recently considered the case of scores of detainees convicted of

committing the Acteal Massacre, in which paramilitary groups, armed and tolerated by State authorities, brutally murdered 45 indigenous community members in the state of Chiapas in 1997. Due to a series of deficiencies in the investigation of these acts, many of those convicted of participation challenged their convictions, alleging irregularities in the gathering of evidence. The Supreme Court agreed that there had been deficiencies in the investigation and therefore ordered the liberation of 20 of those convicted. While it did not fall to the Supreme Court on this occasion to declare the guilt or innocence of those involved, given the extremely high profile of the massacre, civil society organizations have nonetheless denounced the Court's failure at this point to call more directly for accountability for the government authorities involved or consider the integral responsibility of the State as another sign of its unwillingness to confront impunity for grave human rights violations.

The Supreme Court's deficient performance over recent months is especially severe given the other two governmental branches' lack of support for human rights. In the Legislature, it is striking to note that the Senate Commission on Human Rights has not met to discuss issues or make decisions for nearly two years. Meanwhile, years of activism by civil society have not succeeded in convincing Congress to pass a legislative initiative to reform the Constitution to give constitutional hierarchy to human rights treaties to which Mexico is a party.

The Executive Branch, capitalizing on the lack of counterbalance from the other branches and the unwillingness of Mexico's National Human Rights Commission (CNDH) to exercise its full mandate and seriously challenge government policies in the area of public security operations, has recently become even more aggressive in public statements supporting the army and seeking to delegitimize the work of human rights defenders. On the day that the Supreme Court closed the door to cases challenging the use of military

jurisdiction in human rights cases, Felipe Calderón boldly dared civil society to prove “one single case” in which soldiers or police had committed human rights violations that remained in impunity. This statement contradicts data recognized by the government itself (for instance, the thousands of reports received and dozens of recommendations issued by the National Human Rights Commission during the Calderón administration) and demonstrates the growing misinformation and lack of accountability that characterize the government's actions.

These statements are simply the latest in a series of false declarations by Executive Branch officials regarding crucial human rights issues related to Mexican security forces. Indeed, officials have defended the use of military jurisdiction for human rights cases before bodies including the UN Human Rights Council, the Inter-American Commission on Human Rights, and the Inter-American Court of Human Rights with false or deceptive arguments. One such argument is that all decisions of military courts are appealable to civilian courts, which is not true for victims, who lack standing to appeal.

The Executive has also attempted to deflect scrutiny by stating that the army has accepted all the recommendations of the National Human Rights Commission. While technically true, this is irrelevant information since such recommendations do not seek to apply international law or challenge the use of military jurisdiction, meaning that human rights violations remain in impunity.

Those who saw the Supreme Court as the last, best hope for victims of human rights violations thus face a dark national outlook: one in which all three branches of the government, rather than balancing each other, seem balanced against the interests of the ever-growing universe of victims of grave human rights violations in Mexico.

News Briefs

Release of blocked Merida Initiative funds to Mexico, a step that will violate US law and give green light to impunity for gross human rights violations

Representatives of the US State Department announced this August that tens of millions of dollars in public security and military funding for Mexico, which has until now been withheld due to Mexico's failure to observe several basic human rights obligations, will be released for spending. The purported release of these funds, coming at a time when Mexico has not taken any steps to allow civilian authorities to investigate military human rights violations, will violate US law and give an unmistakable green light to the grave human rights violations and impunity that currently characterize Mexico. The funds in question fall within the framework of the multi-year Merida Initiative, in which the US has approved more than \$1 billion for the purchase of helicopters, airplanes, ground vehicles, equipment, training, and other programs to support the Calderón administration's militarized war against drug trafficking. Citing human rights concerns, the US Congress stipulated in the law that created the Merida Initiative that 15% of funding in several categories of the program could not be released until Mexico had fulfilled certain human rights elements, including investigating in civilian jurisdiction soldiers accused of human rights abuses.

Numerous human rights organizations in the US and Mexico, including Center Prodh, have provided the US government with case information, statistics, and other data demonstrating Mexico's failure to fulfill the human rights elements. The clearest example is Mexico's continued use of military jurisdiction to investigate human rights crimes committed by soldiers, a practice that leads to impunity for such abuses. Neither the US State Department nor Congress has asserted that Mexico has changed this practice, nor is there any information that would permit such a conclusion. To release the funds to Mexico will signify that the United States has chosen to violate its own law in order to support an ineffective drug war that operates by systematically violating basic human rights.

Universal Periodic Review: Mexican State continues to defend its questioned public security strategy before UN Human Rights Council

In recent months the Mexican government has stepped up its defense and public justification of practices that flagrantly violate international human rights standards. On occasion of the adoption of the final outcomes of the Universal Periodic Review (UPR) of Mexico on June 11, representatives of the Department of the Interior and Department of Foreign Affairs presented a summary of the human rights situation in Mexico in response to the 91 recommendations made to Mexico by country members of the United Human Rights Council. Specifically, Mexico provided a detailed response to the 8 recommendations that were not originally accepted by Mexico during the February UPR Working Group. The Mexican State once again declined to accept these recommendations which relate to precisely the issues that form the controversial backbone of Mexico's iron-fisted public security policy. These issues are: *arraigo* (pre-charge detention for up to 90 days that has been held by the UN Working Group on Arbitrary Detention to be a form of arbitrary detention); the definition of organized crime in the Mexican constitution (expansive definition effectively leaves the door open for criminalization of social movements); transitional justice and State Impunity (Despite the closure of the Special Prosecutor's office and a complete lack of action, the government claims it is dealing with the issue); and finally, the issue of military jurisdiction (Mexican officials routinely rely on deceptive or false reasoning to defend military jurisdiction to try human rights violations committed by the armed forces). The fact that Mexico continues to fly in the face of the United Nations, international experts and organizations, is of great concern to vulnerability of human rights in Mexico.

Left paralyzed in a wheelchair, Daniel Téllez marks 3 years waiting for reparation from Mexican Army

This September will mark 3 years since Félix Daniel Téllez Ortiz was run over by a military van while he was training on his bicycle by the side of the highway between Mexico City and Queretaro in the municipality of Huehuetoca, Mexico State. Daniel was twenty one years old at the time and extremely dedicated to his sport. The military vehicle had zigzagged along the road toward him at an excessive speed, hitting Daniel and launching his body 30 meters from the site of the accident. Daniel was in a coma for 2 weeks, and after spending 4 months in hospital was diagnosed a paraplegic and had lost all mobility and feeling from his waist down. Soon after taking on the case, civilian investigators declined jurisdiction and the case was transferred to military authorities who put together a slanted version of events and presented Daniel as the suspected guilty party in the accident. Despite testimonies of witnesses who later reported intimidation from army lawyers, the National Department of Defense (SEDENA) gave no response to Daniel's right to reparation, despite the fact that Daniel and family members have tried through various administrative means to claim damages. In June 2008 military prosecutors placed charges against the driver of the military vehicle, who had at the time fled from the scene of the accident and remains at large. Despite the fact that the National Human Rights Commission (CNDH) has investigated the case and attributed responsibility and human rights violations to the SEDENA, there have been no steps taken to repair the damages caused. The SEDENA claims that until it determines within its own system of military justice and through its Internal Control Body that in fact the driver was responsible for the accident, no damages will be paid. Daniel's situation demonstrates the unjust position that victims of military abuses find themselves in, forced to face biased and incompetent military courts and without recourse to civilian oversight.



• This 35th edition of FOCUS has been released for the first time ever in the color black. This color symbolizes the complete impunity that characterizes Mexico at this time, with the Executive, Legislative and Judicial powers all failing to take the necessary actions or even make the necessary public statements to make advances on human rights in Mexico. Within a climate of disturbing public declarations from President Calderón and Secretary of the Interior Fernando Gómez Mont that demonstrate their questionable commitment to human rights, Center Prodh publicly denounces this context and makes this clear with this "black edition" of FOCUS.

• Center Prodh wishes to express its particular concern for the human rights situation in Honduras as a result of the recent Coup d'Etat backed by the armed forces. We express our concern for and solidarity with Radio Progreso, a community radio broadcaster and work of the Company of Jesus (Jesuits) in Honduras, which has in recent weeks received intimidation from members of the armed forces including beatings and inhumane treatment against its reporters. Center Prodh joins the many organizations and international human rights defenders concerned for the right to freedom of expression and press freedom in Honduras, as well as the protection and respect for the human rights of the Honduran population more generally.

Center Prodh was created in 1988 as an institution dedicated to the promotion and defense of human rights. It uses a method of integral defense incorporating four areas of work: integral legal defense, education, communication and analysis and international relations. Center Prodh has consultative status with the United Nations Economic and Social Council and it also has the status of Accredited Organisation with the Organisation of American States.

Center Prodh works with groups throughout Mexico to consolidate human rights protection. Since its founding, it has given effective support and solidarity to groups and persons who have suffered injustice, poverty, and marginalisation. For further information or to join Center Prodh's membership, please contact:

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FOCUS

Human Rights in Mexico



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Bulletin, Issue 35, August 2009

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