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## MEXICO

### Daring to raise their voices

December 2001

SUMMARY

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This report covers a wide range of difficulties and human rights violations facing human rights defenders in Mexico. Drawing on cases of harassment of human rights defenders from 1996 onwards, it highlights how efforts by defenders to improve Mexico's human rights situation have been met with obstruction and persecution. The report examines cases that occurred both during the years of the government of President Ernesto Zedillo Ponce de León (1994-2000) and during the administration of President Vicente Fox Quesada (2000-). The abuses examined by Amnesty International during 2001 indicate that patterns of harassment continue, and will remain unchanged until the authorities adopt immediate measures and reforms that filter down to all levels of the state.

Harassment in the form of spurious criminal charges, public smear campaigns and surveillance operations of human rights defenders have been widely used by past and current Mexican authorities to silence human rights defenders. As well as impeding the work of defenders, such activities deflect attention from human rights violations reported by human rights defenders and undermine the moral authority of the human rights movement, and standards in international human rights law.

The extent of persecution facing human rights defenders in Mexico was thrown into sharp relief with the killing of human rights lawyer Digna Ochoa y Plácido on 19 October 2001. Had previous threats and attacks against Digna Ochoa been properly investigated, her death could have been avoided.

State agents at all levels, or those acting on their behalf, have been implicated in a wide range of abuses against human rights defenders, including the misuse of the legal system, torture and ill-treatment, attempted killings and threats. It is clear that in many cases the aim of these attacks against human rights defenders has been to silence or undermine their complaints so that the perpetrators of human rights violations may escape criminal prosecution. High-ranking government officials have tolerated the attacks, taking insufficient action to prevent or condemn them, or to guarantee the victim's right to justice by ensuring the punishment of those responsible. In so doing, the authorities have acquiesced in covering up human rights violations.

Action by the Offices of the Attorney General, which are responsible for all prosecution services in Mexico, to ensure those responsible for the cases examined in this report are held to account and brought to justice has been at best negligent, at worst obstructive. The virtual inability of the

Offices of the Attorney General to impart justice for cases of human rights violations against defenders has been exacerbated by the fact that many state agents accused of human rights violations are themselves agents of the Offices of the Attorney General.

On 1 December 2000 a new federal government, headed by President Vicente Fox Quesada, took office. President Fox, of the opposition *Partido de Acción Nacional* (PAN), National Action Party, ousted the ruling *Partido Revolucionario Institucional* (PRI), Institutional Revolutionary Party, which had held power for over 70 consecutive years. In his inaugural speech President Fox pledged his government to fully respect human rights and the rule of law. Two months later, in February 2001, he announced a number of reforms to Mexico's Constitution. In making the announcement, President Fox stated that the reforms would include proposals for Mexico to abide by international human rights standards.

Responsibility for resolving all cases examined in this report rests with the current government. However, virtually all cases, past and present, remain unsatisfactorily resolved. The new government of President Vicente Fox Quesada has taken insufficient steps to establish the truth, advance investigations, ensure those responsible are sanctioned in accordance with domestic and international law, or award appropriate reparation to the victims.

Amnesty International also notes with serious concern the number of new cases of harassment of human rights defenders in 2001, the number of unclarified pending criminal charges against defenders and the killing of human rights lawyer Digna Ochoa.

The report concludes by urging the new government to match its rhetoric on human rights with effective action to adopt the recommendations of international and regional human rights mechanism, as well as Amnesty International's recommendations on human rights defenders, and implement a comprehensive policy on human rights defenders involving radical transformations at all levels of the state apparatus.

The treatment of the human rights movement by the authorities is one measure of a government's political will to adhere to international treaties and conventions to which it is a party and which it has agreed to implement. An end to the practice of harassing human rights defenders would constitute an unequivocal indication that the new government intends to make effective improvements to Mexico's poor human rights record.

**KEYWORDS:**HUMAN RIGHTS DEFENDERS1 / HARASSMENT1 / EXTRAJUDICIAL EXECUTION / IMPUNITY / INVESTIGATION OF ABUSES / POLITICALLY MOTIVATED CRIMINAL CHARGES / TORTURE/ILL-TREATMENT / NON-GOVERNMENTAL ORGANIZATIONS / HUMAN RIGHTS INSTRUMENTS / SURVEILLANCE / ATTEMPTED KILLING / PHOTOGRAPHS

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## Contents:

Introduction .....	1
Mexico: human rights and human rights defenders .....	2
Amnesty International's work with human rights defenders .....	8
International protection of human rights defenders .....	9
The responsibility of governments to protect human rights defenders and to take steps to ensure they can carry out their work freely .....	11
Constraints on Mexican human rights defenders .....	12
Politically motivated charges .....	13
Public smear campaigns .....	19
Surveillance and theft of human rights information .....	21
Torture and ill-treatment of human rights defenders .....	24
Attempts on their lives .....	27
Threats and intimidation .....	30
International collaboration .....	33
Conclusions .....	35
Recommendations .....	38
Appendix I .....	43
Appendix II .....	50

## Glossary

<i>PAN</i>	<i>Partido de Acción Nacional</i> , National Action Party
<i>PRI</i>	<i>Partido Revolucionario Institucional</i> , Institutional Revolutionary Party
<i>PRD</i>	<i>Partido Revolucionario Democrático</i> , Democratic Revolutionary Party
<i>CNDH</i>	<i>Comisión Nacional de Derechos Humanos</i> , National Human Rights Commission
<i>CEDH</i>	<i>Comisiones Estatales de Derechos Humanos</i> , State Human Rights Commissions
<i>SEDENA</i>	<i>Secretaría de la Defensa Nacional</i> , Ministry of National Defence
<i>EZLN</i>	<i>Ejército Zapatista de Liberación Nacional</i> , Zapatista National Liberation Army
<i>EPR</i>	<i>Ejército Popular Revolucionario</i> , Revolutionary Popular Army
<i>ERPI</i>	<i>Ejército Revolucionario del Pueblo Insurgente</i> , Insurgent People's Revolutionary Army
<i>PGR</i>	<i>Procuraduría General de la República</i> , Office of the Public Prosecutor
<i>PGJE</i>	<i>Procuraduría General de Justicia de el Estado</i> , Public Prosecutor of the State
<i>PGDF</i>	<i>Procuraduría General del Distrito Federal</i> , Public Prosecutor for Mexico City
<i>INM</i>	<i>Instituto Nacional de Migraciones</i> , National Institute of Migration
<i>CODEHUTAB</i>	<i>Comité de Derechos Humanos de Tabasco</i> , Tabasco Human Rights Committee
<i>CODEHUCO</i>	<i>Comisión de Derechos Humanos en Comalcalco</i> , Human Rights Commission in Comalcalco
<i>CEFPROD HAC</i>	<i>Centro de Estudios Fronterizos y de Promoción de los Derechos Humanos</i> , Centre of Boarder Studies and Human Rights Promotion
<i>AJAGI</i>	<i>Asociación Jalisciense de Apoyo a los Grupos Indígenas</i> , Jalisco Support Association for Indigenous Groups
<i>PRODH</i>	<i>Centro de Derechos Humanos "Miguel Agustín Pro Juárez"</i> , Human Rights Centre "Miguel Agustín Pro Juárez"
<i>CADHAC</i>	<i>Ciudadanos en Apoyo a los Derechos Humanos</i> , Citizens for Human Rights, a Mexican non-governmental organization
<i>ANAD</i>	<i>Asociación Nacional de Abogados Democráticos</i> , National Association of Democratic Lawyers
<i>UNAM</i>	<i>Universidad Nacional Autónoma de México</i> , National Autonomous University of Mexico
<i>CDHFBC</i>	<i>Centro de Derechos Humanos "Fray Bartolomé de Las Casas"</i> , Fray Bartolomé de Las Casas Human Rights Centre
<i>LIMEDH</i>	<i>Liga Mexicana de Derechos Humanos</i> – Mexican League of Human Rights
<i>COSYDDHAC</i>	<i>Comisión de Solidaridad y Defensa de los Derechos Humanos</i> , Commission for Solidarity and Defence of Human Rights
<i>CEDIAC</i>	<i>Centro de Derechos Humanos Indígenas</i> , Indigenous Rights Centre
<i>IACHR</i>	Inter-American Commission on Human Rights
<i>OAS</i>	Organization of American States

# MEXICO

## Daring to raise their voices

### Introduction

Human rights defenders are men and women who act on their own or collectively to contribute to the effective elimination of all violations of the fundamental rights of peoples and individuals. This work includes the search for truth and justice in the case of human rights violations, the struggle for gender and racial equality, the protection of economic, social and cultural rights and the rights of indigenous peoples, and the struggle against hunger, poverty, and discrimination. Defenders work in various spheres of society and their work is inspired and guided by human rights standards.

In all societies, no matter how democratic, independent scrutiny by civil society makes an important contribution to ensuring that governments protect human rights and conduct their activities within the parameters of the laws, treaties and contracts agreed upon within that society and the international community. Indeed, the best safeguard for the human rights of all individuals is the opening up of the state to reasonable public scrutiny and the encouragement of the community to become involved in these processes. Through campaigning and debate, human rights defenders promote the legal safeguards and reforms which can help prevent abuses. They constantly remind governments that they must fulfil their promises and honour their legal and constitutional obligations to protect the rights of their citizens.

According to the Secretary-General of the United Nations (UN), “Human rights defenders are at the core of the human rights movement the world over... They form the base that regional and international human rights organizations and mechanisms, including those within the United Nations, build upon in the promotion and protection of human rights.”<sup>1</sup> The Assistant Secretary General of the Organization of American States (OAS) defined them as “essential actors of our time”. Defenders are the voice of the voiceless, crucial instruments for safeguarding the rights of victims and society at large.

The right to defend human rights is defined by the Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

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<sup>1</sup>UN doc. A/55/292, 11 August 2000.

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***Mexico: human rights and human rights defenders***

On 19 October 2001, Digna Ochoa y Plácido was shot dead. Her body was found at a legal office in the centre of Mexico City. The killers left a death threat warning other human rights defenders from the *Centro de Derechos Humanos "Miguel Agustín Pro Juárez"* (PRODH), Miguel Agustín Pro Juárez Human Rights Centre, that they would meet a similar fate, if they continued their human rights work. Digna Ochoa was a leading human rights lawyer who had



Digna Ochoa y Plácido  
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won international awards in recognition of her human rights work. She had worked with PRODH for many years on cases in which public officials, including members of the Offices of the Attorney General and the armed forces, had been implicated in serious human rights violations. She had campaigned to expose the perpetrators and force the authorities to bring them to justice.

Like many human rights defenders in Mexico, Digna Ochoa had suffered years of death threats, assault and intimidation. None of these incidents were investigated effectively. Amnesty International believes that had the previous and current Mexican authorities taken appropriate action to ensure an exhaustive and independent investigation, her life might have been saved. Digna Ochoa's killing highlighted the virtual failure of the new government to deliver on pledges to improve the human rights situation in Mexico.

On 1 December 2000 a new federal government, headed by President Vicente Fox Quesada, took office. President Fox, of the opposition *Partido de Acción Nacional*, National Action Party (PAN), ousted the ruling *Partido Revolucionario Institucional* (PRI), Institutional Revolutionary Party, which had held power for over 70 consecutive years. In his inaugural speech President Fox pledged his government to fully respect human rights and the rule of law. Two months later, in February 2001, he announced a number of reforms to Mexico's Constitution. In making the announcement, President Fox stated that the reforms would include proposals for Mexico to abide by international human rights standards.<sup>2</sup>

Mexico boasts a wide range of official human rights mechanisms and institutions. At the beginning of the 1990s the *Comisión Nacional de Derechos Humanos (CNDH)*, National Human Rights Commission, Mexico's Ombudsman's office and an extensive system of

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<sup>2</sup> At the time of writing, details regarding the nature of these reforms were still not available.

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*Comisiones Estatales de Derechos Humanos (CEDH)*, State Human Rights Commissions, were set up to monitor human rights issues. Mexico has also undertaken, with varying degrees of success, a number of legal and institutional reforms such as steps to improve legislation on torture and ill-treatment, and “disappearances”. More recently, Mexico initiated a Technical Assistance Agreement with the United Nations to tackle structural problems to overcoming human rights, and pledged to ratify outstanding human rights treaties, to reopen cases before the Inter-American Human Rights Commission (IACHR) and to implement outstanding IACHR recommendations.

However, Mexico is a country where human rights violations, including killings, “disappearances”, torture and ill-treatment and illegal detentions, committed by the security forces<sup>3</sup> remain widespread.<sup>4</sup> The state does not take appropriate action to monitor its agents to stop them from committing such violations, does not take effective action to prevent violations, and often tries to avoid sanctioning those responsible for violations, especially if they are members of the armed forces or hold high-ranking positions.

In the vacuum between new institutions and laws to protect human rights and pervasive human rights violations, the expanding Mexican human rights movement has made key contributions to improving respect for human rights. Human rights defenders are frequently the only reliable source of information regarding the human rights situation and the only voice covering the wide gap between the victims, who are often too scared to present their own cases, and the failing

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<sup>3</sup> A number of police forces in Mexico – under the authority of the Federation, the states, the Federal District and the municipalities – carry out law enforcement functions. Under the administration of President Fox all matters relating to national public security were transferred from the Ministry of the Interior (*Secretaría de Gobernación*) to the newly created Ministry of Public Security (*Secretaría de Seguridad Pública*). The Mexican armed forces, which carry out counter-insurgency operations as well as law enforcement functions such as counter-narcotics operations, answer to the *Secretaría de la Defensa Nacional* (SEDENA), Ministry of National Defence.

<sup>4</sup> Amnesty International has long documented a pattern of widespread human rights violations throughout Mexico. See, *Mexico: Under the shadow of impunity* (AMR 41/02/99), March 1999; *Mexico: “Disappearances” - a black hole in the protection of human rights* (AMR 41/05/98), May 1998; *Mexico: Amnesty International’s concerns regarding torture and ill-treatment in Mexico* (AMR 41/17/97), April 1997; *Mexico: Overcoming fear - human rights violations against women in Mexico* (AMR 41/09/96), March 1996; *Mexico: Human rights violations - a challenge for the nineties* (AMR 41/21/95), November 1995; *Mexico: The persistence of torture and impunity* (AMR 41/01/93), June 1993; *Mexico: Torture with Impunity* (AMR 41/04/91), September 1991. *Mexico: Human rights in rural areas* (AMR 41/07/86).

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mechanisms of the state, which so often act to curtail the victims' right to redress rather than to ensure those responsible are held to account.

Human rights defenders represent a growing and important sector of Mexican public life. Since the beginning of the 1990s they have been active in the documentation, protection and promotion of human rights, frequently working as members of non-governmental organizations (NGOs). They come from all walks of life: academics, journalists, priests and Indian peasant leaders have not only campaigned on behalf of thousands of victims of human rights violations, but have forced the government to acknowledge the seriousness of the problem.

The growth of human rights activism in Mexico has helped cultivate a human rights culture and ensure the dissemination of human rights principles and practices. The human rights movement has made important contributions to the development of legal reforms to protect against human rights violations such as torture and ill-treatment and "disappearance". They have campaigned to ensure that the victims of human rights violations, for example those "disappeared" during the 1970s and those killed in massacres such as Aguas Blancas in Guerrero in 1996 and Acteal in Chiapas in 1997, are not forgotten, that those responsible for these atrocities are brought to justice and the victims and their relatives compensated. They have also proposed important legal and political changes in the area of women's, indigenous and refugee rights, and have led the debate on social and economic rights and the widening gap between the very rich and the poor.

The Mexican human rights movement has also been at the forefront of the struggle to promote significant democratic reforms, such as the right to cast a confidential vote and the importance of independently monitored elections to ensure fairness and transparency. The ruling PRI retained power for more than 70 consecutive years largely on account of complex systems of co-option, vote rigging and vote buying. Although many problems still persist, pressure from civil society for democratic reform and transparent electoral procedures contributed to political changes in the 1990s, and a change in political leadership in the 2000 election.

Human rights defenders in Mexico are not confronting abuses committed by a few isolated individuals, but abuses committed with the acquiescence or complicity of large numbers of state agents. No single government agency is solely responsible for the human rights abuses that take place, those responsible include federal and state authorities, police and army officials, prosecutors, medical personnel and judges. Abuses take place contexts of counter-insurgency,<sup>5</sup>

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<sup>5</sup> The mid-1990s witnessed the emergence of three new armed opposition groups in Mexico: the *Ejército Zapatista de Liberación Nacional* (EZLN), Zapatista National Liberation Army, in Chiapas state, and the *Ejército Popular Revolucionario* (EPR), Revolutionary Popular Army, and *Ejército Revolucionario del Pueblo Insurgente* (ERPI), Insurgent People's Revolutionary Army, principally in Guerrero and Oaxaca states. These three southern states contain the vast majority of

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drugs and crime operations, extortion and corruption, at the local and national level. However, the widespread nature of human rights violations should never detract from one fundamental fact: Mexico's federal government is obliged under international law to ensure that all people under its jurisdiction are able to fully exercise their human rights.<sup>6</sup> Mexico is a state party to the American Convention on Human Rights and is thereby bound to the Federal Clause enshrined in article 28 of the Convention.<sup>7</sup>

Impunity for human rights violations is endemic. The UN and the IACHR have reiterated recommendations to Mexico regarding measures to end impunity,<sup>8</sup> but few appear to have been heeded. Many studies have shown that one of the main reasons for impunity in Mexico is the way the civilian public prosecution services are currently structured and run. Another, is the weakness of the judiciary. "Confessions" obtained under duress where the onus falls on the defendant to prove he or she has been tortured are frequently accepted in court as evidence. The judiciary is also prone to giving excessive weight to evidence provided by the public prosecution services, frequently identifying with the interests of the government in the

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Mexico's indigenous population.

<sup>6</sup>According to the Political Constitution of the Mexican United States, Mexico is a single Federation or Union consisting of 31 states and one Federal District (Mexico City). In addition to the federal Constitution, each of the 31 states and the Federal District have their own constitutions, and executive, legislative and judicial systems.

<sup>7</sup>Article 28 of the American Convention on Human Rights states *inter alia*: "Where a State Party is constituted as a Federal State, the national government of such State Party shall implement all the provisions of the Convention over whose subject matter it exercises legislative and judicial jurisdiction. With respect to the provisions over whose subject matter the constituent units of the federal State have jurisdiction, the national government shall immediately take suitable measures, in accordance with its constitution and its laws, to the end that the competent authorities of the constituent units may adopt appropriate provisions for the fulfilment of the Convention."

<sup>8</sup>United Nations Committee against Torture, 'Concluding observations of the Committee against Torture: Mexico', UN document A/52/44, 2 April 1997, paragraphs 164 and 165; United Nations Human Rights Committee, 'Considerations of reports submitted by states parties under article 40 of the International Covenant on Civil and Political Rights - Comments of the Human Rights Committee,' UN document CCPR/C/79/Add.32, 18 April 1994, paragraphs 7 and 14; United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, Resolution 1998/4, 20 August 1998, paragraph 1; United Nations Special Rapporteur on Torture, "Report of visit to Mexico", UN document E/CN.4/1998/38/Add.2, 14 January 1998, paragraphs 82, 86 and 88; United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, UN document E/CN.4/1996/4, paragraph 321; and Inter-American Commission on Human Rights, 'Report on the situation of Human Rights in Mexico', OEA/Ser.L/V/II.100, September 24, 1998, paragraphs. 303 and 351.

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deliverance of justice. In addition, cases of serious human rights violations in which members of the army are implicated, while formally subject to civilian jurisdiction, are invariably passed into the jurisdiction of the military justice system.

Criminal investigations in Mexico are under the exclusive responsibility of the *Procuraduría General de la República* (PGR), Attorney General's Office, the *Procuradurías Generales de Justicia los Estados* (PGJEs), State Attorney Generals Offices, and the *Procuraduría General de Justicia del Distrito Federal* (PGJDF), Attorney General's Office of the Federal District of Mexico City.<sup>9</sup> These bodies are in charge of investigating crimes and prosecuting suspects under their jurisdiction, procuring, evaluating and presenting evidence before the courts, recommending that sentences be imposed, and ensuring that the legal rights and guarantees of defendants, including the right to due process, are fully respected. These bodies also have the responsibility for investigating complaints of human rights violations by law enforcement officers under their jurisdiction. This means that victims and their relatives are unable to bring a prosecution themselves and also that judges cannot take the initiative to open investigations. The PGR, PGJDF and the PGJEs are subordinate to the Executive and frequently act in the direct interest of the government, rather than as an independent prosecuting authority upholding the rule of law. The lack of independent investigations into reports of human rights violations and the lack of autonomy of the federal and state-level prosecution services is a serious impediment to ending impunity.

While the well resourced CNDH and CEDHs may have contributed to improving human rights through human rights education programs, on the crucial issue of human rights violations committed by public officials the institution has become more of a government mouthpiece than

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<sup>9</sup> Mexico's system of prosecution services is also based on Mexico's federated division of powers. At the federal level exists the *Ministerio Público de la Federación*, Federal Public Ministry, known as the *Procuraduría General de la República* (PGR), Office of the Attorney General. The PGR is headed by the *Procurador General de la República*, Attorney General of the Republic. The Attorney General of the Republic is the legal advisor to the government (*consejero jurídico del gobierno*) and is part of the *Ejecutivo Federal*, Federal Executive headed by the President of the Republic. The Attorney General of the Republic, appointed by the President of the Republic and ratified by the Senate, can be removed at will by the Executive. In relation to the 31 states and the Federal District, the prosecution services consist of 31 *Procuradurías Generales de Justicia de los Estados* (PGJE) and the *Procuraduría General de Justicia del Distrito Federal* (PGJDF), under the direction of their respective Attorney Generals. The PGR, the 31 PGJEs and the PGJDF are each assisted by their respective judicial police forces, namely the *Policía Judicial Federal* (PJF), 31 *Policía Judicial de los Estados* (PJE) and the *Policía Judicial del Distrito Federal* (PJDF). In recent years military personnel have been recruited into the Offices of the Attorney General at both federal and state levels. This practice has continued since President Fox's new government came into power.

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a human rights watchdog.<sup>10</sup> The CNDH's reluctance to publicly criticize the security forces, in particular the military, has undermined its legitimacy and credibility.<sup>11</sup> The fact that many of the Commission's staff have held or pass into positions as public officials contributes to undermining public perception of the institution as an autonomous body. When the Commissions have made recommendations, a considerable number of state and federal authorities have failed to fully comply with them. The Commissions have taken insufficient action to follow up recommendations or overcome the problem of non-compliance. The lack of compliance with the recommendations carries no legal penalties and no court has the duty to enforce them; the cycle of impunity thus continues.

This report shows how the human rights rhetoric of previous and current Mexican governments, both at home and in international fora, has not been matched with due respect for the important work of human rights defenders in Mexico. It shows how the human rights movement has managed to press ahead defending human rights despite major campaigns by government officials at all levels, federal, state and municipal, to silence them and wrongly portray them and their work as criminal or subversive. The report documents attacks on human rights defenders not only by the authorities but by local political bosses (*caciques*), individuals belonging to armed groups, or by political groupings all of which have varying relations with the authorities.<sup>12</sup> During decades of research by Amnesty International in Mexico, the organization has been able to confirm that many of these individuals cannot operate without the support of the state and that the complexity of power relations in Mexico means that the state is often complicit in the actions of non-state actors.

This report does not document the rich history of human rights activism in Mexico, nor does it describe the many varied human rights organizations now active in Mexico. Instead, it highlights widespread practices of repression and control of human rights defenders used by authorities under the previous and current government in an attempt to thwart the efforts of defenders to

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<sup>10</sup> See *Performance and Legitimacy: national human rights institutions*, International Council on Human Rights Policy, 2000, Geneva.

<sup>11</sup> For instance, according to the International Council on Human Rights Policy, by the end of 1999 the CNDH had failed to make a single recommendation against the army in the course of the Chiapas conflict, Op.cit. Page 54

<sup>12</sup> Alongside its formal constitutional structures, Mexico has a long historical tradition by which informal political power is exercised by unofficial political bosses (*caciques*) who often receive from and grant favours to elected officials with whom they are *compadres*. With or without these *cacique-compadre* relationships, in many localities throughout Mexico political violence by those officially in power is reported to be carried out in practice by *caciques* and their civilian armed supporters, in exchange for favours by those officially in power.

expose state agents, or those acting on their behalf or with their knowledge, implicated in human rights violations, and to ensure they are brought to justice.

Throughout the 1990s Amnesty International documented a large number of attacks against human rights defenders.<sup>13</sup> This report concentrates on cases which occurred from 1996 onwards during the government of President Zedillo Ponce de León (1994-2000) and during the first year of the government of President Vicente Fox Quesada (2000-). The report does not cover all of the large number of cases known to Amnesty International.

With a view to determining to what degree the new government is willing to end harassment of human rights defenders and impunity for human rights violations, this report also traces steps taken by the authorities to resolve previous cases of human rights violations since President Vicente Fox Quesada came to power.

### ***Amnesty International's work with human rights defenders***

Amnesty International, a worldwide movement established in 1961, considers itself part of a global movement of human rights defenders, a movement which the organization has committed itself to strengthening and supporting. Amnesty International recognizes the crucial role that defenders play nationally in the struggle for human rights and gives top priority to protecting them and their work.

For many years Amnesty International has worked with human rights activists throughout Mexico to present their concerns at international fora and provide international support for national and local human rights initiatives. The process of monitoring, reporting and reflecting on at least some of the concerns of the human rights movement has made the organization acutely aware of the problems faced by those defending human rights throughout Mexico.

In 1996 Amnesty International held an international conference on human rights defenders in Bogotá, Colombia. On the basis of the recommendations made at the conference Amnesty International has sought to identify and report on patterns of harassment of human rights defenders throughout the world, to facilitate mutual interaction between activists, and to encourage the establishment of mechanisms to strengthen their work to protect human rights. Amnesty International Mexico Section has joined worldwide efforts campaigning to protect the work of human rights defenders in Latin America and the Caribbean and elsewhere.

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<sup>13</sup> See Amnesty International: *Human Rights Defenders on the Front Line in Central America and Mexico* (AI Index AMR02/01/96), and *Human Rights Defenders on the Front Line Update* (AI Index: AMR 02/04/96).

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*International protection of human rights defenders*

The right to defend human rights is protected by a variety of international standards and principles. On 9 December 1998, on the eve of the 50<sup>th</sup> anniversary of the Universal Declaration of Human Rights, the United Nations General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. The Declaration has become commonly known as the Declaration on Human Rights Defenders.

The adoption of this Declaration was the culmination of more than twelve years of negotiations and lobbying by human rights organizations and governments to ensure international recognition for the crucial role that human rights defenders are playing across the world in advancing the promotion and protection of human rights. By establishing a set of principles to safeguard this important work and those who carry it out, the Declaration highlights the increasing significance of the role of individuals and groups from civil society in independently scrutinizing and criticizing official policy and practice on human rights.

The Declaration sets out the rights of human rights defenders, identifying specific freedoms and activities which are fundamental to their work, including the right to know, seek, obtain and receive information about human rights and fundamental freedoms, the right to participate in peaceful activities against violations of human rights and the right to criticize and complain about the non-compliance of governments with human rights standards, and to make proposals for improvement. By referring to the right to act collectively the Declaration pays special attention to freedom of association and the right to act in collaboration with others for the protection of human rights. The Declaration requires that states address these rights and freedoms to ensure human rights defenders may carry out their work freely, without interference or fear of threats, retaliation or discrimination. The text of the Declaration is given in Appendix I to this report.

The Declaration on Human Rights Defenders is a set of principles, based on legal standards enshrined in international human rights law, adopted by every member of the United Nations through their participation in the UN General Assembly, including Mexico. To encourage its implementation, the 1999 session of the UN Commission on Human Rights called on all states to provide and give effect to the Declaration and to report on their efforts. The Commission urged all UN human rights bodies and mechanisms<sup>14</sup> to take the provisions of the Declaration into account in their work. In addition, the UN Secretary-General appointed a Special

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<sup>14</sup> UN thematic mechanisms consist of a number of special rapporteurs, representatives, independent experts or working groups appointed (usually by the UN Commission on Human Rights) to look at specific types of human rights violations wherever in the world they occur. Country mechanisms also exist which look at the human rights situation in specific countries.

Representative on Human Rights Defenders with a mandate to monitor, document and intervene on behalf of human rights defenders under threat.

The governments of the Americas recognized the importance of individuals, groups and NGOs who promote human rights in June 1999 when a resolution entitled “Human Rights Defenders in the Americas”, was adopted by the General Assembly of the OAS. In the resolution, governments stated their intention to implement the Declaration on Human Rights Defenders passed by the United Nations. In particular, they agreed to “recognize and support the work carried out by Human Rights Defenders and their valuable contribution to the promotion, observance, and protection of fundamental rights and freedoms in the Americas.” The resolution calls on state members to provide “Human Rights Defenders with the necessary guarantees and facilities to continue freely carrying out their work of promoting and protecting human rights” as well as to adopt “the necessary steps to guarantee their life, liberty, and integrity”.

In June 2000, the OAS General Assembly adopted another resolution regarding human rights defenders, reiterating its support for their valuable work and urging “member states to intensify their efforts to adopt the necessary measures..., to guarantee the life, personal well-being, freedom of expression of human rights defenders, in accordance with internationally accepted principles and standards.”<sup>15</sup>

International concern for the specific difficulties faced by Mexican human rights defenders and the need for Mexico to address this issue was highlighted in the resolution of the United Nations Sub-Commission on the Prevention of Discrimination and the Protection of Minorities asking the Mexican Government to “ensure full respect for international instruments to which Mexico is party and... attach the highest priority ... to promoting the action of human rights defenders and guaranteeing their safety”.<sup>16</sup>

***The responsibility of governments to protect human rights defenders and to take steps to ensure they can carry out their work freely***

Rather than working with human rights groups and individuals to ensure rights for the most vulnerable, successive Mexican governments have, in too many instances, taken action to suppress their activities. Instead of welcoming the formation of the human rights movement and

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<sup>15</sup> AG/RES.1711 (XXX-O/00)

<sup>16</sup>Resolution 1998/4, UN Sub-Commission on Prevention of Discrimination and Protection of Minorities.

international alliances on rights issues, they have attempted to limit these and restrict them, labelling them as anti-national, political or subversive.

Under international human rights treaties the Government of Mexico is accountable for attacks, harassment, including the misuse of the judicial system, and threats against human rights defenders carried out by law enforcement officials and other agents of the state. In accordance with these treaties the government has a duty to guarantee respect for human rights by taking effective action to ensure state agents act within the rule of law, to prevent abuses, to investigate and bring those implicated in human rights violations to justice and to award reparation to their victims. This duty implies an obligation to impart justice by ensuring diligence in the criminal prosecution of offenders and the removal, or otherwise, of any obstacles that might obstruct the workings of justice.

A member of the UN since 1945, Mexico has been a party to – that is, has voluntarily undertaken a legal commitment to uphold the provisions of – numerous international and

regional human rights treaties listed in Appendix II. The supremacy of international treaties over Mexican domestic law is a clear international legal principle. However, inconsistencies in national statutes have repeatedly enabled the authorities not to comply with their obligations under international human rights law. According to article 133 of Mexico's Constitution, international treaties signed or ratified by Mexico have the status of "the Supreme Law of the entire Union" ("*la Ley Suprema de toda la Unión*"), when these concur with the principles of the Constitution. Mexico's Supreme Court (*Corte Suprema de Justicia*) has ruled that international treaties hold supremacy and prevalence over Mexico's federal laws,<sup>17</sup> implying that domestic law that contradicts international human rights laws is not applicable. New

**Article 12 of the Human Rights Defenders Declaration**

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

<sup>17</sup>Supreme Court, Tesis No.P.LXXVII/99.

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constitutional reforms undertaken by the current government, which unequivocally secure the prevalence of international human rights law over all domestic law, would constitute a sign that Mexico intends to uphold its obligations in international human rights law.

State responsibility for human rights violations includes not only violations of human rights by the state agents but also, in certain circumstances, abuses by private individuals. The government has obligations to take action against individuals who hamper or threaten the work of human rights defenders, whether or not the state has ordered, connived in or acquiesced to such abuses. If the state fails to act with due diligence to prevent, investigate and punish abuses, including harassment of human rights defenders, it is responsible under international human rights law. The responsibility of states to take action to prevent and punish human rights abuses by private persons is established in the core human rights treaties. The ICCPR requires state parties to "ensure" the rights of the Covenant, an obligation which the UN Human Rights Committee has indicated extends to protection against acts inflicted by people acting in their private capacity.

## **Constraints on Mexican human rights defenders**

Harassment of human rights defenders is a serious problem in Mexico. As this section of the report shows, human rights defenders have repeatedly been treated by the authorities as though their work to defend and promote human rights were a criminal or subversive activity. They have been subjected to degrading forms of persecution ranging from being falsely accused of crimes such as murder, drug trafficking or theft, to being publicly slandered, humiliated and linked to terrorism or corruption. They have had their legitimate activities and their private lives monitored and registered by the state and information they hold on violations of human rights has been tampered with or stolen.

Both federal and state authorities, in particular politicians, have been implicated in falsely incriminating human rights defenders and their work. Instead of condemning these incidents, some high-ranking government officials have fuelled such attacks. The widespread involvement of state officials in discrediting the work of human rights defenders, for the purpose of shielding public officials from prosecutions relating to human rights violations, suggests a pervasive contempt in many state institutions for human rights work and international human rights standards and principals.

Spurious criminal charges against Mexican human rights defenders have frequently been accompanied by degrading and humiliating treatment in media campaigns alleging the guilt of the accused, openly violating their right to legal redress and to be presumed innocent until proven guilty. This sort of slanderous irresponsibility also places the accused at risk of attack by those who take justice into their own hands and feel immune from prosecution.

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In addition to the damage caused to the individual who is wrongly incriminated on account of their human rights work, such incidents act to deter others involved in criticizing government human rights practices.

### *Politically motivated charges*

In Mexico, the misuse of the judicial system to punish, take revenge on or harm individuals is extremely common. Expressions of dissent or opposition by civil society have frequently been silenced with fabricated or politically motivated criminal charges.<sup>18</sup> During the second half of the 1990s, Amnesty International researched a number of cases of human rights defenders who, because of their criticism of the authorities' human rights practices, were falsely accused of crimes they had not committed. In the vast majority of cases, investigations into the charges have not lead to convictions because of the dubious or insufficient evidence presented by the prosecution. However, in some instances, despite a lack of evidence, the charges remain pending.

The adverse effects of the legal system being manipulated to persecute critics of the government, in this case members of the human rights movement, are compounded by the lack of independence of the Offices of the Attorney General from the State and Federal Executive. The weakness of the judiciary and its subordination to the public prosecution services has contributed to the authorities' failure to ensure prompt redress and an effective remedy to those who have had their rights violated or to ensure that those falsely accused are protected by the necessary legal safeguards.

According to data compiled by Amnesty International, human rights defenders have, in some instances, been arbitrarily imprisoned within the context of counter-insurgency operations by the security forces. Luis Menéndez Medina, a member of the *Comité de Derechos Humanos Fray Pedro Lorenzo de la Nada*, Brother Pedro Lorenzo Human Rights Committee, was illegally

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<sup>18</sup>During the 1980s and 1990s Amnesty International adopted many prisoners of conscience, mostly local peasant and political leaders detained for political reasons, on the basis of weak evidence or confessions extracted under torture, on account of their beliefs or non-violent protest activities. See, *Mexico: Silencing dissent - The Imprisonment of Brigadier General José Francisco Gallardo Rodríguez* (AMR 41/31/97), May 1997; Urgent Action UA14/97 *Four Prisoners of conscience*, 15 January 1997; Urgent Action UA 212/97 *Juan Zamora González and Marcos Zamora González - prisoners of conscience*; Urgent Action UA 306/94, *Manuel Manríquez San Agustín - prisoner of conscience*, 19 August 1994; *Mexico: Human rights in rural areas* (AMR 41/07/86), 1986; *Human rights violations in southern Mexico, Amnesty International's Memorandum to the Mexican Government*, October 1984.



Rodolfo Montiel  
© Private

detained together with 15 others on 11 and 13 April 1998 in a joint army and police operation in the municipality of Taniperla, in the southern state of Chiapas. Some of those detained were released, but Luis Menéndez was held and charged with several crimes, including “rebellion” and “illicit association”. During the investigation several people were reportedly coerced into providing false testimonies which they later repudiated. Despite a CNDH recommendation calling for the release of all those detained, Luis Menéndez remained in prison until 15 September 1999. There was insufficient evidence to prosecute and charges were dropped. The detention of Luis Menéndez was related to his human rights work with indigenous communities in Chiapas; communities resisting militarization which were therefore perceived as support bases of the *Ejército*

*Zapatista de Liberación Nacional* (EZLN), Zapatista National Liberation Army.<sup>19</sup>

Some human rights defenders have been sentenced and imprisoned on fabricated charges for the sole purpose of halting their campaign work. One case that reached international headlines is that of prisoners of conscience,<sup>20</sup> ecologists Rodolfo Montiel and Teodoro Cabrera, members of the *Organización de Campesinos Ecológicos de la Sierra de Petatlán y Coyuca de Catalán*, Peasant Environmentalist Organization of the Mountains of Petatlán and Coyuca de Catalán. The two ecologists were detained on 2 May 1999 as a result of their campaign against excessive logging operations in the state of Guerrero region which they claim threaten the environment and livelihood of local peasant communities.

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<sup>19</sup>Since the emergence of the EZLN in 1994 widescale human rights violations committed by the security forces, or illegal armed civilians or so-called paramilitary groups, have been reported in Chiapas. In the most alarming of these incidents, 45 unarmed indigenous people were extrajudicially executed during the Acteal massacre on 22 December 1997. Compelling evidence on the Acteal massacre shows that the authorities facilitated the arming of paramilitaries who carried out the killings and failed to intervene as the savage attack continued for hours.

<sup>20</sup>“Prisoners of conscience” refers to those prisoners who, in Amnesty International’s view, have been imprisoned as a result of their beliefs, race, ethnic origin, language or religion, who have not used or advocated violence. Amnesty International calls for the immediate and unconditional release of all prisoners of conscience.

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Rodolfo Montiel and Teodoro Cabrera were arbitrarily detained by members of the 40<sup>th</sup> Army Battalion in the community of Pizotla, in the municipality of Ajuchitlán, Guerrero state. While in the incommunicado custody of the military, the two men were tortured to force them to sign self-incriminating confessions. They were subsequently charged with drugs and firearms related crimes and sentenced to six and ten years' imprisonment respectively. When their case came to appeal in July 2001, the convictions were ratified despite irregularities of due process and evidence collected by international forensic experts supporting the claim that their confessions were extracted under torture. An investigation was originally initiated into allegations of torture by the PGR in 1999. However, the investigation was immediately passed to the military justice system where it appears to have halted. The judge in charge of hearing the appeal case in 2001 did not seek information regarding the progress of the military investigation.

In Tabasco state, the authorities have resorted to spurious charges to silence several prominent leaders of human rights organizations. The abuse of the legal system to persecute human rights defenders in Tabasco is closely linked to two key issues. On the one hand, human rights defenders in Tabasco have played a leading role in promoting democratic reforms and criticizing what they consider to be flawed electoral practices and procedures.<sup>21</sup> On the other hand, Tabasco human rights defenders have also been very vocal in their criticism of activities by the state-owned petroleum company PEMEX



Teodoro Cabrera  
© Private

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<sup>21</sup> Tabasco is considered a bastion state of the PRI: Many experts believe that the opposition party, the PRD, won the 1994 state election as well as several subsequent municipal elections, but that on account of irregularities in the election, the PRI remained in power.

which have caused the death of several people and serious environmental damage.<sup>22</sup>

In 1994 and 1995, Father Francisco Goita Prieto, priest and president of the *Comité de Derechos Humanos de Tabasco A.C.* (CODEHUTAB), Tabasco Human Rights Committee, was publicly accused in several newspapers of promoting armed groups and violence. In late 1998, he was falsely accused of the murder of a man killed in a traffic accident in November 1997. Relatives of the victim in the accident filed a complaint regarding coercion by members of the judicial police to press charges against the priest. An investigation carried out by the CNDH<sup>23</sup> found serious delays and irregularities had taken place during the initial investigation and the collection of evidence. For example, the initial examination of the vehicle alleged to have been involved in the accident and belonging to Father Francisco Goita concluded that the vehicle showed no signs of having been in an accident. A second examination ordered by the PGJE some ten months later concluded that the vehicle had been repaired or painted, insinuating that the accused had attempted to cover up evidence that may have implicated him in the accident.

The CNDH also concluded that agents of the PGJE had been implicated in intimidating the relatives of the victim to testify against Father Francisco Goita and had acted with negligence by failing to provide the CNDH with the necessary documentation required to conduct an independent investigation. Members of the PGJE persistently refused to hand the CNDH a copy of the dossier of the investigation, despite repeated written requests and two personal visits by the CNDH. Although the PGJE stopped pursuing the investigations, Father Francisco Goita is

unaware whether charges against him have been dropped.



The offices of CODEHUTAB in Tabasco  
© Amnesty International

Human rights defenders in Tabasco reported that during the course of the investigation against Father Francisco Goita, a huge advertisement was placed, allegedly on the orders of then state Governor, Roberto Madrazo Pintado, over the offices of CODEHUTAB, saying "Human Rights are for everyone, not just to defend criminals".

<sup>22</sup>One of the cases worked on by Tabasco Human Rights Committee is that of the community of Plátano y Cacao where the explosion of PEMEX pipelines on 16 February 1995 led to the death of nine people. Although the CNDH recommended ( Recommendation 80/96) the Tabasco state authorities ensure all those responsible for the explosion were brought to justice and the families affected relocated, the state authorities reportedly refused to accept the recommendation.

<sup>23</sup> CNDH Recommendation 17/99, document CVG/183/99, 12 March 1999.

Although the advertisement was removed, it was later re-erected, remaining over the premises of the organization for one year.

In a similar case, Indalecio Pérez Pascual, an activist with CODEHUTAB and member of the *Comité de Derechos Humanos Indígena de Macuspana*, Macuspana Indigenous Human Rights Committee, municipality of Tabasco, was indicted of the murder of a local politician. On 24 September 1996, the Villahermosa judge in Tabasco ordered his arrest for the murder of a member of the PRD during a demonstration in July 1995.

On 31 August 1998 the CNDH concluded that the investigation undertaken by the PGJE lacked impartiality as it omitted a number of procedures requested by Indalecio Pérez, ignored testimonies he supplied and accepted accusatory testimonies that had clearly been fabricated. The CNDH also noted that the investigating attorney committed serious errors by delaying recovery of ballistic evidence and by failing to exhaust investigations into other individuals accused of the crime. It also concluded that Indalecio Pérez's complaint against the Tabasco CEDH was founded on the grounds that the CEDH had failed to deal with his complaint regarding irregularities in the investigation.

The CNDH recommended that the Governor of Tabasco state send its conclusions to the Tabasco PGJE to determine whether, with the new information supplied by the CNDH, it would dismiss the case against Indalecio Pérez. It also recommended that the action of several state officials be investigated, and sanctions applied where necessary. The authorities in Tabasco state reportedly refused to accept the CNDH recommendations. Just months before he was accused of murder, Indalecio Pérez had been the victim of a campaign to discredit him in the media by local politicians, who linked him to the armed opposition group the *Ejército Popular Revolucionario* (EPR), Revolutionary Popular Army.



**José Medel Cordoba and Mario Alberto Gallardo**

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Several other cases of politically motivated charges have been reported in Tabasco. For instance, Mario Alberto Gallardo, lawyer, political activist and one-time president of the non-governmental *Comisión de Derechos Humanos en Comalcalco* (CODEHUCO), Human Rights Commission in Comalcalco, was accused in September 2000 of having stolen the keys of a car. The lawyer had been protesting against the use of fiscal funds for political propaganda in election campaigns and defending political activists detained for

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protesting electoral irregularities. Although Mario Gallardo was never called before any judicial authority an arrest warrant was issued. However, when the political opposition party, the PRD, won the local municipal election in Comalcalco in October 2000, the witnesses to the theft, alleged members of the outgoing PRI, withdrew their testimonies and the case was closed.

Other politically motivated charges include those of criminal defamation<sup>24</sup>. In July 2000, criminal defamation charges were brought against Arturo Solís, president of the *Centro de Estudios Fronterizos y de Promoción de los Derechos Humanos, A.C. (CEFPRODHAC)*, Centre of Border Studies and Human Rights Promotion, in the state of Tamaulipas. Charges were brought by state officials of the *Instituto Nacional de Migraciones (INM)*, National Institute of Migration, who CEFPRODHAC had accused of extortion and ill-treating illegal migrants and who were implicated, together with criminal organizations, in aiding their entry into the USA. Since the charges were made against Arturo Solís no further information has been presented by the prosecution. No proper investigation has been conducted into the allegations regarding ill-treatment filed by CEFPRODHAC. Those who initially gave evidence were threatened and retracted their statements.

Criticism of the authorities' policies and practice on human rights is an essential form of freedom of expression protected by the principles of the UN Declaration on Human Rights Defenders and other international standards. In a report on defamation laws, the Inter-American Commission on Human Rights (IACHR) noted that "in democratic societies political and public figures must be more, not less, open to public scrutiny and criticism."<sup>25</sup> As a result, the Commission was of the opinion that defamation laws breach the guarantee of freedom of expression.

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<sup>24</sup> The term defamation refers to a category of laws designed to protect reputations. These laws are also called slander, libel, insult and *desacato* laws. However, some of these laws, in particular those that codify defamation as a criminal offence, are sometimes misused to restrict freedom of expression. Defamation laws can clearly serve a legitimate purpose, protecting reputations by providing redress against certain types of malicious statements. However, the use of such laws to silence government critics, including human rights defenders, in order to assist those accused of human rights violations to escape prosecution, is clearly unacceptable. Defamation laws can also be used to restrict freedom of expression and limit the free flow of information and ideas, including information that might clarify the involvement of state agents in human rights violations. The UK based NGO Article 19 states that "All criminal defamation laws should be abolished and replaced, where necessary, with appropriate civil defamation laws". These Principles have been endorsed by the OAS Special Rapporteur on Freedom of Expression and the UN Special Rapporteur on Freedom of Opinion.

<sup>25</sup> *Verbitsky v. Argentina*, 20 September 1994, Case No. 11.012, Report No. 22/94, 3 IHRR52.

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### *Public smear campaigns*

In Mexico, the use of public smear campaigns to undermine the credibility of human rights work, to harass and take revenge against members of human rights NGOs exposing the involvement of state agents in human rights violations, is alarmingly widespread.

Unsubstantiated, defamatory accusations, including allegations of murder, corruption or terrorism, can be presented in the media as statements of fact, confirmed by “evidence” which remains unspecified and unchallenged. Accusations against human rights defenders are often made through unofficial reports and “accidental” press leaks, all easily disowned and denied by the authorities. Nevertheless, there can be no doubt that those who make the accusations are aware of their consequences. Such slander of defenders deflects attention from their work against human rights violations. In openly attacking human rights work, those who make such accusations are colluding or acquiescing with the perpetrators of violations.

Unsubstantiated defamatory statements place human rights workers at risk. As this report has already highlighted, criminal proceedings may be initiated against them, or worse still illegal armed groups, operating at the behest of government officials, may treat such statements as authorization to directly attack human rights workers. Such statements undoubtedly pressurize human rights workers into modifying, or even halting, their activities and complaints in order to avoid harassment.

Graciela Zavaleta Sánchez, president of the *Comisión Regional de Derechos Humanos “Mahatma Gandhi”*, “Mahatma Gandhi” Regional Human Rights Commission, in the state of Oaxaca, was the target of public slander campaigns for several consecutive years between 1994 and 1997. On 26 July 1997, the newspaper *El Gráfico* published an anonymous piece titled: “Links between Graciela Zavaleta and organized mafia”. Representatives of national human rights organizations told Amnesty International that when they sought support from the Oaxaca State Governor to stop these attacks, he responded, “I can’t guard her back, these are occupational hazards. They also attack me, I can’t do anything about the death threats against you, that’s what happens for working on human rights”.

Local political bosses, *caciques*, often instigate public accusations against human rights defenders. Alfredo Zepeda, a Jesuit priest, and Concepción Hernández Méndez have suffered numerous threats and harassment for their roles as members of the *Agrupación de Derechos Humanos Xochitépetl*, Xochitépetl Human Rights Group, and the *Comité de Derechos Humanos de la Sierra Norte de Veracruz*, Human Rights Committee for the Mountains of Northern Veracruz, respectively. Both organizations campaign on behalf of impoverished peasants of the Otomí, Nahuatl and Tepehua Indian communities in Veracruz state. In May 1996

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local *caciques*, who were taking over indigenous lands, ran a campaign in the local press, accusing Alfredo Zepeda and Concepción Hernández Méndez of murdering a landowner and calling for reprisals against them. Although the Roman Catholic bishop of the region made public statements condemning the false accusations, Alfredo Zepeda and Concepción Hernández Méndez received several anonymous death threats.

The *Asociación Jalisciense de Apoyo a los Grupos Indígenas (AJAGI)*, Jalisco Support Association for Indigenous Groups, became the target of a public government campaign in March 1998 in which the association was labelled “terrorist”. The Governor of the northern state of Nayarit reportedly accused members of AJAGI of being representatives of the armed EZLN group and asserted that he had ordered the police to block access by AJAGI to the Huichola mountains. These attacks were made in the context of AJAGI’s work with Huichol indigenous groups and their complaints regarding environmental damage caused by excessive logging.

In some instances, high ranking governmental officials have themselves made false, sometimes public, declarations equating human rights workers with criminal activities. On 24 July 1998, the Mexican daily newspaper *La Jornada* published an article in which General Álvaro Vallarta, president of the Commission for the Defence of the Senate of the Republic, was reported to have accused members of the national human rights network ‘*Todos los Derechos para Todos*’, ‘Full Rights for All’, and the PRODH of receiving drugs money and wanting to destabilize the country. No charges were ever brought against members of these organizations and no evidence was presented to back up the serious accusations.

### ***Surveillance and theft of human rights information***

Evidence collected by Amnesty International suggests that state practices of monitoring and collecting information held by human rights organizations has been widespread. Many human rights organizations complain of telephone tapping, interference with their mail, surveillance of their activities and movements, as well as theft of information regarding those implicated in human rights violations. The authorities repeatedly fail to take these complaints seriously and ensure proper investigations.

Information covertly collected from human rights organizations by the authorities during intelligence operations can be used to pervert the course of justice and stall investigations. The authorities may use the personal details of victims and witnesses obtained in this way to intimidate them and coerce them to retract their complaints. Information on individual human rights activists may be used against them, either to plan an attack, bring charges against them or intimidate them or their relatives. Many of the incidents of harassment outlined in this report indicate that the perpetrators had detailed knowledge of the movements and private lives of

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human rights defenders. Interference by the authorities in the activities and information of human rights organizations hampers their efforts to independently monitor the human rights situation and to compile information to defend the victims of human rights violations.

The contribution human rights defenders make to the promotion of human rights and respect for the rule of law has been internationally acknowledged. Attempts by the authorities to gather information on them and their legitimate activities on the pretext of national security are totally unacceptable. There can be no reason for the security forces or specialized intelligence units to hold archives on the legitimate activities or private lives of human rights defenders. Any information regarding alleged criminal activities should be passed immediately to the appropriate judicial authorities for investigation.

In October 1996, the *Ley Federal Contra la Delincuencia Organizada*, Federal Law Against Organized Crime, was passed by Congress. The law makes provision for the security forces to detain suspects and intercept telephone lines (with the permission of a judge) in relation to counter-insurgency and organized crime.<sup>26</sup> Although the secretive nature of these activities render it impossible to monitor many aspects of the application of this law, it is clear that the law may facilitate practices of treating human rights organizations as criminal entities and tapping their telephones to procure information about investigations on human rights violations committed by state agents.

Surveillance of members of *Ciudadanos en Apoyo a los Derechos Humanos A.C.* (CADHAC), Citizens for Human Rights, a Mexican non-governmental organization which monitors human rights in the northern state of Nuevo León, began in 1996 after the organization submitted information to the IACHR regarding allegations of torture and ill-treatment in detention centres. In February 1999 surveillance was reported outside the offices of CADHAC; members were also followed when they left the office. The surveillance operation coincided with attempts by CADHAC to seek international attention on the *Centro de Readaptación Social de Apodaca (CERESO de Apodaca)*, Apodaca Social Reintegration Centre, a prison in Monterrey, after more than 40 inmates initiated a hunger strike to protest against alleged torture and ill-treatment.

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<sup>26</sup>Mexican human rights organizations have criticized the new legislation, designed to combat armed opposition groups and organized crime, as dangerous for the rule of law in Mexico. The extended powers of the armed forces, in their view, erode constitutional guarantees and increase intervention of the armed forces in the political affairs of the country. The IACHR has also criticized the Mexican military for conducting policing functions in which it carried out arbitrary detentions and searches without court orders, and in some cases tortured detainees. IACHR, Report on the Situation of Human Rights in Mexico, OEA/Ser.L/V/II.100, 24 September 1998, para.399-408.

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In May 1997 armed individuals engaged in overt surveillance of the PRODH offices in Mexico City and filmed the activities of members of the organization. The PRODH informed state authorities but no investigation is known to have been completed. The individuals surrounding the PRODH offices were finally forced to leave when several journalists, called by the PRODH staff, arrived and began to film them. At the time the PRODH was working on controversial human rights cases in Chiapas.

Amnesty International knows of no cases in which complaints of surveillance of members of human rights organizations have been properly investigated, and those responsible identified and brought to justice. Nonetheless, initial investigations by the PGJDF into the filming by two individuals working from a van parked outside the offices of the *Red Nacional de Organismos Civiles de Derechos Humanos "Todos los derechos para todos"*, National Network of Civilian Human Rights Organizations "All rights for everyone", on 5 June 2000, showed that the vehicle belonged to the vice-director of the *Dirección de Contrainsurgencia del Centro de Investigación y Seguridad Nacional (CISEN)*, Ministerial Department of Counter-insurgency of the Centre for Investigation and National Security, in the Interior Ministry.<sup>27</sup> Two individuals were identified as having responsibility for the vehicle that day.

Since federal agents were identified in relation to the incident the investigation should have been passed to the federal authorities. However, in August 2001 the CNDH informed human rights defenders that the case had been closed. According to the CNDH, CISEN inspectors [*Controlaría Interna*] had investigated the incident and taken administrative procedures against those involved, and as a result the CNDH "considers the incident resolved by friendly settlement"<sup>28</sup>. This practice of reaching "friendly settlements" without consulting the complainant and passing entire files regarding complaints of human rights violations to the same authorities implicated in the crimes poses a serious obstacle to overcoming the lack of public confidence in the CNDH and its counterparts at state level. When the National Network of Civilian Human Rights Organizations, refuted ever having been consulted on the "friendly settlement", and presented new evidence on the case, the CNDH agreed to request a new judicial investigation.

Theft of information from offices or homes of individual human rights defenders is usually badly disguised as common crime and investigations are not pursued by the authorities. Human rights lawyers are frequently amongst those targeted because of the detailed legal information they hold regarding sources, witnesses and judicial action against public officials. In May 1998

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<sup>27</sup>In 2001, the CISEN was transferred to the *Secretaría de Seguridad Pública*, Ministry of Security, created as part of the reforms implemented by the government of President Vicente Fox.

<sup>28</sup> CNDH File No. 2000/3464, document CVG/DGAI/013175.

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unidentified individuals broke into the offices of the *Asociación Nacional de Abogados Democráticos* (ANAD), National Association of Democratic Lawyers, in Mexico City. They took computers and files, as well as a list of addresses and telephone numbers. This was the third time ANAD had experienced theft of its information and relation to cases involving labour rights. No investigation is known to have concluded.

The house of lawyer Leonel Guadalupe Rivero Rodríguez in Ecatepec de Morelos, in the state of Mexico, was broken into on 29 March 2000. The break-in appeared to be an attempt to steal files regarding the controversial cases of students who had been detained one month earlier in mass arrests at the *Universidad Nacional Autónoma de México* (UNAM), National Autonomous University of Mexico. Shortly after the break-in, some of the lawyer's clients and contacts received telephone calls from an individual claiming to be Leonel Rivero and trying to set up meetings to attend court hearings. Although Leonel Rivero ratified his complaint with the PGJE in the state of Mexico, no progress is known to have been made in the investigation.

On 23 August 2000 human rights defender Hilda Navarrete's home and the office of the Human Rights Commission "*La Voz de los sin Voz*", "The Voice of the Voiceless", in Coyuca de Benítez, Guerrero state, were broken into. Computer equipment was stolen and the office ransacked. The break in occurred one week after approximately 80 soldiers had stationed themselves outside Hilda Navarrete home and office and had been seen pointing their weapons at the building. On that same day, Hilda Navarrete had made a public presentation on the case of imprisoned ecologists Rodolfo Montiel and Teodoro Cabrera.

Amnesty International has found little evidence to suggest that the practice of monitoring and collecting intelligence information on the work of human rights organizations had stopped in the last year. On 1 June 2001 one member of the *Ñu'u Ji Kandii* (meaning "Land of the Sun" in indigenous Mixteco language) Human Rights Centre, which works with indigenous communities in the state of Oaxaca on social and economic rights, had important documentation stolen from his car. Although this information had been covered with a newspaper, the thief had sorted through the papers taking specific files containing information on cases. The thief also took a personal diary and a set of keys to the office of the organization.

In Mexico City, the hard drive of a computer belonging to *Sin Fronteras*, Without Borders, an NGO working on the rights of immigrants and refugees, was stolen on 15 June 2001 by an individual who gained access to the premises posing as a computer technician. Although the PGDF carried out an inspection of the offices the following day, persistent inquiries by *Sin Fronteras* regarding advances in the investigation have been ignored. A police patrol to guard the premises was provided for two days.

### *Torture and ill-treatment of human rights defenders*

Constraining and undermining the activities of human rights defenders through fabricated criminal charges, surveillance and slander campaigns have not been the only form of obstructing or silencing human rights work in Mexico. A worrying number of human rights defenders have also been tortured, ill-treated, shot at, threatened and harassed.

The majority of these violations have been planned and carried out by state agents, often members of the security forces, or those acting on their behalf or with their consent, at both federal and state level, during counter-insurgency, crime or drug operations. Most cases are not isolated incidents, but occur in the context of a pattern of surveillance, unsubstantiated public accusations or threats.

The limited measures that have been taken by the authorities to protect human rights defenders have usually been the result of international pressure. The failure of these measures to deal with the cause of the problem suggests that they are little more than a public-relations exercise.

The majority of judicial investigations into such violations have been flawed and inconclusive. The lack of due diligence in investigation techniques and procedures, in particular in the collection of evidence and the use of torture to extract confessions, means that the vast majority of cases have had no prospect of advancing.

In 2000 the CNDH established the Program of Offences against Journalists and Civilian Human Rights Defenders and the Commission has occasionally produced far-reaching recommendations on cases of harassment of human rights defenders. However, despite this, the CNDH's attention to such cases has been inconsistent.<sup>29</sup>

Torture and ill-treatment are common and widespread in Mexico<sup>30</sup> and are used by state agents, in particular members of the federal and state judicial police and agents of the Offices of the Attorney General, not only for the extraction of false confessions, but also as methods of extortion and punishment. The following cases show how human rights defenders have been

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<sup>29</sup> CNDH, Specific Work Program 2000.

<sup>30</sup>The persistence of torture by federal, state and municipal law enforcement officers and members of the army, and the failure of the authorities to make any sustained attempt to resolve the problem, has long been recognized by a wide range of entities. These include successive Mexican governments, human rights mechanisms of the UN and the OAS, and a range of Mexican and international human rights NGOs. See Amnesty International, *Mexico: Justice Betrayed - Torture in the judicial system* (AI Index AMR 41/021/2001), July 2001.

tortured and ill-treated on account of their work to uncover human rights violations committed by the security forces in the context of counter-insurgency operations, extortion, drug and corruption rackets.

On 17 September 1996 journalist Razhy González Rodríguez, then director of the popular magazine *Contrapunto* and correspondent for the news agency *Reuters*, who reported on human rights issues, was abducted by three men, one of whom wore stockings over his head to conceal his identity. Razhy González was tied at the wrists and ankles and blindfolded in the back of a car. For two days he was held and questioned about alleged links with the EPR. During the interrogations he was filmed, photographed, threatened and made to walk around in circles. He was then left in a field near Oaxaca airport. After Razhy González's abduction, the offices of *Contrapunto* were kept under surveillance and threatening telephone calls were received.

The details of the vehicle in which Razhy González was abducted were reported to the authorities by a witness. The PGJE, however, has not been unable to locate the vehicle. According to Razhy González, the PGJE asked him to drop his complaint, which was archived in August 2000.



Mural made by the Loxicha community which says 'Children of Loxicha, we want peace'. © Amnesty International

In another case, also in Oaxaca state where counter-insurgency operations were widespread during the late 1990s, Israel Ochoa, a human rights lawyer, was detained on 5 September 1996 by the federal judicial police. He was held overnight, beaten and interrogated. Israel Ochoa told Amnesty International that his abductors simulated his execution by putting a pistol to his head and firing blank shots, and threatened to fetch his daughter or to take him to the *Campo Militar No.1*, Military Camp No.1, in Mexico City, where the military would make him talk. The detention was linked to Israel Ochoa's work defending cases of individuals from the Loxicha region accused of involvement with the EPR.<sup>31</sup> Although investigations were initiated at both

<sup>31</sup> Over a period of almost four years, since August 1996, over 130 indigenous zapotecs from the Loxicha region of Oaxaca state have been arbitrarily detained, held in incommunicado detention

state and federal level, Israel Ochoa was not called to ratify his complaint or participate in inquiries to identify the perpetrators and the harassment against him continued.

In June 1999, an arrest warrant was issued against Israel Ochoa at the request of the PGR for the crime of defending two cases with opposing interests. The grounds for the arrest were overturned in an appeal in which the judge determined that there “were insufficient elements to verify the existence of *corpus delicti*”.

Human rights defenders in Mexico City have also been targeted. On the evening of 28 October 1999, three unidentified men entered the house of Digna Ochoa y Plácido, a lawyer working with PRODH. They blindfolded her and interrogated her for several hours about members of the PRODH in Mexico City. They also asked her about the EPR and the EZLN. The men allegedly tied Digna Ochoa to her bed and locked her in a room with an open gas canister. The telephone line was cut. After they left she managed to set herself free. The same night the offices of the PRODH were broken into. In 2000, the investigation into these incidents was passed to the PGR, however no progress appears to have been made in identifying the perpetrators and the case was archived in May 2001. As a result of precautionary measures requested by the IACHR, police surveillance was arranged for the PRODH offices. The CNDH initiated an investigation but no recommendation is known to have been made. On 19 October 2001, Digna Ochoa y Plácido was shot dead. The killers left a death threat warning other human rights defenders from the PRODH, that they would meet a similar fate, if they continued their human rights work. Amnesty International believes that had the previous and current Mexican authorities taken appropriate action to ensure an exhaustive and independent investigation, her life might have been saved.

Journalists investigating the links between police violence and corruption have frequently been targeted. In September 1997 plainclothes policemen in Mexico City beat and threatened to kill Daniel Lizarraga, who had been investigating police corruption for the daily newspaper *Reforma*.

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and tortured by the security forces. Impunity prevails in most of these cases and inhabitants of the region live in fear of further reprisals. Most of the detentions were carried out by either the federal or Oaxaca state judicial police, other police forces or the military, acting on their own or in combined operations. According to reports, one victim, Gaudencio García Martínez, was tortured with soaked dirty cloths held over his face, water forced up his nostrils, electric shocks to his genitals and navel and threats that he would be buried alive. Many of those detained have now been released, but despite CNDH recommendations no effective investigation into the torture has taken place.

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Also in September 1997, the Federal District Police in Mexico City reportedly beat television reporters René Solorio and Ernesto Madrid, apparently on account of their investigations of police killings. Solorio's abductors put a plastic bag over his face, fired gunshots near his head, and told him they had already executed his family. No one has been brought to justice in relation to either of these incidents.

### *Attempts on their lives*

Human rights defenders working in remote areas have been especially vulnerable to attack because of the way power is traditionally delegated down to regional and local structures. Amnesty International has examined a number of cases of attempted killings or shootings of human rights defenders perpetrated by armed civilians (sometimes referred to as paramilitary groups because of alleged links with the armed forces), by local political bosses (*caciques*) and their cohorts, or by political groupings which have varying relations with the state.

On 15 February 1997 members of the *Centro de Derechos Humanos "Fray Bartolomé de Las Casas"* (CDHFBC), Fray Bartolomé de Las Casas Human Rights Centre, in Chiapas, were attacked by members of *Paz y Justicia*, Peace and Justice, a so-called paramilitary group, as the defenders tried to escape an ambush in the municipality of Sabanilla where they had been investigating human rights issues. José Antonio Montero Solano of the CDHFBC was shot in the arm and an international observer accompanying the delegation was wounded in the head with an axe. The police in the village who reportedly heard a member of *Paz y Justicia* warn the human rights delegation that there was a "party" waiting for them further on, took no action to prevent the ambush. Some members of the delegation managed to turn back and ask the police for help. When the police finally arrived they told one of the paramilitaries, "Until now you have had our support as well as that of the Office of the Attorney General. But now that you have done this, you're going it on your own".

According to testimonies, members of *Paz y Justicia* had been assisting the police for several days in setting up road blocks and searching people. No full investigation by the authorities was known to have been conducted into the attack. When a member of CDHFBC inquired with the PGJE about the ballistic testing of the shots fired at their vehicle, they were told that the holes could have been caused by anything. Despite the fact that the authorities knew the identity of the commander of *Paz y Justicia*, no one was detained or brought to justice. No recommendation on the case is known to have been issued by either the CEDH or the CNDH.

More recently, in August 2001, members of the CDHFBC were ambushed after having been to the municipality Simojovel to collect information regarding human rights abuses. Two armed individuals wearing military clothing tried to hold up their vehicle as they travelled on the Bosque

San Cristóbal road between the communities of San Antonio el Brillante and San Cayetano. This incident occurred not far from a military base. By the end of September, the authorities had still not carried out an inspection of the scene of the attempted ambush. The CDHFBC received threats by electronic mail earlier in the year. In October 2001, suspicious individuals were reported to have requested, both at the office of the CDHFBC and at travel agencies, details regarding the travel arrangements of members of CDHFBC.

In the state of Oaxaca human rights defenders have been attacked while mediating conflicts between communities in relation to land and indigenous rights. For instance, Father Romualdo Francisco Mayrén Peláez, founder of the *Centro Regional Bartolomé Carrasco Briseño*, Bartolomé Carrasco Briseño Regional Centre, was fired at on 8 October 1998 by a group of armed individuals from the municipality of Teojomulco, in the south of Oaxaca state. Shots were fired near Father Romualdo Mayrén's head and feet, but he was not injured. The gunmen were acting on the orders of the local PRI political boss (*cacique*), and ex-municipal president, who opposed the rights work the Father promoted in the community.

Father Romualdo Mayrén filed a complaint with the Oaxaca PGJE, but few steps appear to have been taken to advance the investigation. Lack of due diligence was reported in the collection of testimonies and ballistic evidence that may have clarified the facts regarding the shooting. For example, in a communication to Amnesty International the PGJE informed that it carried out an inspection of the site where the incident occurred on 5 May 1999, finding no evidence on account of the sandy nature of the soil. According to Father Romualdo Mayrén, the PGJE asked him to withdraw his official complaint on two occasions. Finally, in May 2001 the priest was notified that the investigation had been closed. No recommendation is known to have been made by either the CEDH or the CNDH.

In October 2001 Amnesty International received reports that Father Romualdo Mayrén had been publicly and wrongly accused on the radio of telling parishes to vote for the opposition in upcoming municipal elections. Defamatory flyers were also reported to have been distributed. Father Romualdo Mayrén had been working on the right to a secret vote and the importance of transparent elections. Francisco Narvaez, who was working with Father Romualdo Mayrén, was attacked by the son of the local PRI leader and told he would "disappear". A complaint has been filed.

In the context of the Loxicha case (see above), Angélica Ayala and other individuals taking provisions and medical supplies to San Agustín Loxicha, in Oaxaca state were reportedly threatened and beaten on 21 March 1997, by alleged members of the *guardias blancas*<sup>32</sup>, hired

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<sup>32</sup>*Guardias blancas* are armed guards employed by local political bosses (*caciques*) and/or landowners.

gunmen acting for local political bosses (*caciques*), in the presence of municipal authorities who took no action to deter or halt the attack. No progress was made on the investigation into the incident. In April 1998 the CEDH reportedly closed its investigations concluding that there was no responsibility on the part of the authorities. Angélica Ayala is the president of the *Liga Mexicana de Derechos Humanos*, Mexican League of Human Rights. As a result of her human rights work she has been publicly accused of belonging to the armed opposition group, the EPR.

In Chihuahua state the military have threatened human rights defenders. Priests and catechists working on indigenous rights with the *Comisión de Solidaridad y Defensa de los Derechos Humanos* (COSYDDHAC), Commission for Solidarity and Defence of Human Rights, a non-governmental human rights organization, have found themselves in the firing line. On 11 November 1999 a group of them was stopped while travelling in the municipality of Baborigame, in the Sierra Tarahumara, by two soldiers in uniform from Military Zone 42. The soldiers asked the group for a lift to a community approximately ten hours' drive away. The group refused because they were expected back in their community. When the group drove off one of the soldiers took aim at their vehicle and shot at them. Although the military was reported to have opened an investigation and detained those responsible, when COSYDDHAC solicited details to clarify issues of reparation they received no reply. In the weeks following the shooting other priests in the area working with COSYDDHAC were also threatened and intimidated.



Members of COSYDDHAC, Paquita Jimenez Barrientos, Father Camilo Daniel Pérez and Sister Felícitas Cruz Salas.

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### ***Threats and intimidation***

Many Mexican human rights defenders have suffered some form of threats and intimidation. In all instances the apparent intention has been to frighten members of human rights organizations into silence and dissuade them from pursuing their legitimate human rights activities.

Relatives campaigning for the release of Brigadier General José Francisco Gallardo Rodríguez,<sup>33</sup> who was jailed in relation to criticism of human rights violations by members of the Mexican armed forces, have been threatened on a number of occasions. On 8 June 1996, Marco Vinicio Gallardo Enríquez, General Gallardo's son, was attacked at his home by two strangers who threatened him and stole his watch, wallet and car keys (but did not take the car). The fact that he was later able to recover his credit cards suggests that the motive behind the attack was not robbery but intimidation.

The incident occurred a few days after a judicial hearing in late May 1996 at which his father reported a number of irregularities. Moreover, the previous day, 7 June, the *Comité Pro-Liberación del General Gallardo*, Committee for the Release of General Gallardo, had organized demonstrations in relation to the case. In May 1996 and November 1995, Marco Vinicio Gallardo suffered similar attacks, and for months his family received constant telephone threats.

Members of COSYDDHAC in Chihuahua state were the victims of a campaign of intimidation between 1996 and 1998. Father Camilo Daniel Pérez, president of COSYDDHAC, and his secretary María Pérez Castillo were singled out in relation to their human rights activities, especially their work to support indigenous communities protesting the encroachment of their lands and illegal logging in the state of Chihuahua. COSYDDHAC had also been active in reporting human rights violations committed by members of the armed forces which have several bases in the Sierra Tarahumara.

The campaign started in April 1996 when an envelope was pushed under the office door. The note inside said "Mr. Camilo Daniel Pérez: I warned you that María and her children were in danger but you ignored me. Choose: Cosyddhac or Camilo". Between 13 and 27 January 1997, María Pérez received five telephone calls threatening the lives of her son and the priest. In October and November 1997 these threats intensified as faxes arrived at the office and the windows of Father Camilo Pérez's car were smashed. In December 1997 the office of the priest was broken into and, although nothing was stolen, documents were searched and left thrown over the floor. On 7 May 1998 a group of unidentified individuals set fire to María Pérez's car and a few days later to the church storehouse.

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<sup>33</sup>Brigadier General José Francisco Gallardo Rodríguez, who was adopted by Amnesty International as a prisoner of conscience in 1994, has been under military arrest since November 1993. See *Mexico: Gallardo - Prisoner of conscience (AMR 41 /037/2001) November 2001*; and *Mexico: Silencing dissent - The imprisonment of Brigadier General José Francisco Gallardo Rodríguez (AMR41/31/97)*, May 1997.

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Father Camilo Pérez first filed criminal complaints regarding threats against him in early 1997, and COSYDDHAC sent a letter urging an investigation in December 1997. Another complaint was filed on 7 January 1998. Yet, the PGJE notified the organization at the end of January 1998 that it had failed to register the complaint. The PGJE did not officially initiate an investigation until February 1998. As a result of precautionary measures requested by the IACHR, police surveillance was established outside the office. Father Camilo Pérez told Amnesty International that the telephone installed to identify the origin of incoming calls, and thereby assist with the investigations, never properly functioned. No progress was made regarding the investigations. The CNDH closed its investigation on the grounds that it could not identify the appropriate authorities with whom to take up the case.

In November 1998, the wife of human rights defender Abel Barrera answered a telephone call at their home in Tlapa, Guerrero state, in which a recorded message said that if members of the Centre for Human Rights of Tlachinollan did not stop their activities they would be harmed. Two weeks earlier an employee at Abel Barrera's private office was told that if Abel Barrera did not stop defending criminals he would be killed. Several months previously the Attorney General in Guerrero was reported to have publicly claimed Abel Barrera was protecting the EPR.

In January 1999 José Rentería Pérez, then coordinator of the “Ñu’u Ji Kandii” Human Rights Centre in Oaxaca, was verbally threatened by a legislative deputy in Oaxaca. At the same time, several newspaper articles claimed that José Rentería was attempting to create illegal armed groups and was linked to the EPR. The threats were related to work on indigenous rights and the right to self-determination in the municipality of Santiago Ixtayutla.

In 2000, the IACHR requested precautionary measures for both José Rentería and the community members of Santiago Ixtayutla. The policeman assigned to protect José Rentería admitted that he had been sent to watch him rather than look after him. No bullet-proof vest or pistol was assigned to the policeman and the vehicle the authorities pledged did not materialize. The telephone installed in the community as part of the special measures reportedly never worked. In April 2001, José Rentería mounted an appeal against the closure of the PGJE investigation into the threats on the grounds of irregularities in the collection of evidence.

In May 2001, José Rentería filed a new complaint regarding a public statement that was reportedly handed out to journalists by members of the *Sub-secretaría de Desarrollo*, Oaxaca Development Ministry, which answers to the *Secretaría Técnica de Gobernación*, Operations Unit of the Interior Ministry, entitled: “José Rentería, history of an agitator steeped in obscure interests”.

Threats have also been issued to prevent defenders gaining access to areas where human rights violations are known to have been committed. On 31 March 2001 Mauro Cruz, a human rights

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defender in Tamaulipas state was threatened by members of the security forces who aimed their guns at him, when he and two journalists tried to monitor an anti-narcotics operation in the town of Guardado de Abajo, municipality of Miguel Alemán near the border with the United States. The three were refused access to the area where reports had been received that 20 people were in incommunicado detention, and that some had been tortured and ill-treated: one person was allegedly suspended from a rope of a helicopter and ducked in a river several times.

Although the threats against Mauro Cruz were videoed, the CNDH allegedly refused to accept the complaint. In a second incident on 25 September 2001, a military commander shouted “defender of narcos” at Mauro Cruz and a lawyer who attempted to prevent the illegal detention of an individual by the military during an anti-narcotics raid. The individual had not been caught *in flagrancia*, no agent of the state prosecution services was present, nor did the military have an arrest warrant. Members of the military also aimed their guns at journalists reporting the raid.

Some threats against human rights defenders have occurred in the context of illegal detentions. The detention, with or without an authorized arrest warrant, of members of human rights or social organizations can be considered arbitrary when such measures are intended to prevent human rights defenders from carrying out their legitimate work or are used as a form of punishment. Harassment of this nature by the state contradicts guidelines laid down by the UN Working Group on Arbitrary Detention.

César Estrada Aguilar, member of the *Centro de Derechos Humanos Indígenas* (CEDIAC), Indigenous Rights Centre, based in Sitala, Chiapas state, was reportedly detained, apparently without an arrest warrant, on 17 March 1998 by two police officers in the municipality of Sitala. His captors forced him at gunpoint to drive around the surrounding area and repeatedly threatened to kill him on account of his defence of indigenous rights. César Estrada Aguilar was subsequently held in the police station in Sitala for three hours, during which the threats and harassment by the two police officers continued. Members of CEDIAC had been previously threatened in 1996.

## **International collaboration**

Amnesty International welcomes the openness that the Government of Vicente Fox Quesada has demonstrated towards international collaboration on the human rights situation in Mexico. The organization hopes this attitude reflects greater political will to improve respect for human rights. It represents a departure from previous administrations which, on the grounds of national sovereignty, frequently sought to curtail the involvement of international human rights mechanisms, as well as human rights defenders from other countries, in monitoring Mexico’s human rights situation.

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During the late 1990s a large number of human rights defenders from other countries were expelled from Mexico. For example, in April 1997 INM agents in Acapulco, state of Guerrero, confiscated the visas of two members of an international delegation, Vilma Núñez de Escorcia, director of the Nicaraguan Human Rights Centre, and Benjamín Cuéllar, director of the Human Rights Institute of the Central American University in El Salvador, who were visiting prisons and collecting testimonies of victims of torture. Despite having informed the Mexican consulate in their own countries about their visit, they were expelled from Mexico four days after their arrival.

Restrictions on the movement and activities of international human rights defenders were officially endorsed following a number of controversial expulsions shortly after the Acteal massacre in the state of Chiapas in December 1997. In relation to these expulsions, the Lawyers Committee for Human Rights stated that the Mexican State employed Article 33 of the Mexican Constitution on the involvement of foreigners in internal political affairs in an arbitrary manner to allow the expulsion of foreign human rights observers when it disagreed with their views or activities.<sup>34</sup> In most cases the authorities did not provide mechanisms by which to review the application of Article 33, nor provide a justification as to why it considered the individuals' human rights activities to constitute political or otherwise unacceptable activities.<sup>35</sup>

In May 1998, the Ministry of the Interior introduced visa requirements for foreign human rights observers to visit the country. These measures made it more difficult for individuals representing human rights organizations to promote and monitor human rights owing to delays in obtaining visas, restricting visits to 10 days, except in exceptional circumstances, and requesting detailed information about the places and organizations to be visited, thereby jeopardizing the confidentiality of victims, relatives and witnesses giving testimonies.

Although the Mexican authorities asserted that these requirements would not restrict the activities of "reputable" organizations, in October 1998, after obtaining special visas, Amnesty International delegates were denied access to prisons on more than three occasions, despite the fact that the organization had informed the authorities of its intentions. In other cases, government officials harassed members of human rights organizations and interfered with their work even when they had entered the country on a valid visa for human rights work.

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<sup>34</sup>A *Disabling Environment, Government Restrictions on Freedom of Association of Human Rights Non-governmental organizations in Mexico*, Lawyers Committee for Human Rights, June 1999, page 29.

<sup>35</sup>Article 33 of the Mexican Constitution states, "the Executive has the exclusive power to expel, immediately and without trial, any foreigner whose presence it deems inconvenient. Foreigners may not, under any circumstances, meddle in national political affairs".

The Declaration on Human Rights Defenders specifically guarantees the right of all individuals and associations to form, join, participate in and communicate with NGOs at national and international levels.<sup>36</sup> Collaboration and exchange between different associations is an important part of their work. The presence of international human rights workers with local human rights organizations in areas of conflict or areas where human rights violations are known to have been committed is an important safeguard for the protection of human rights. Unjustified attempts to constrain such activities violate the right to freedom of association and the right to defend human rights.

Amnesty International welcomes the fact that some cases of human rights defenders expelled in the late 1990s have been reviewed by the new government so that they may return to Mexico. The organization also welcomes the relaxing of immigration controls for human rights defenders entering Mexico from abroad and hopes this recognition of the importance of international assistance on human rights issues may help improve Mexico's human rights situation. Regular public scrutiny and inspection by both governmental and non-governmental bodies of specific activities by state officials, including members of the security forces, constitutes a vital safeguard for the protection of human rights. The human rights and dignity of many sectors of society can be substantially improved when governments are open to scrutiny by appropriate bodies, including national and international human rights groups.

## Conclusions

The activities of the diverse Mexican human rights movement have not been well received by many federal and state authorities in Mexico. Harassment of human rights defenders, in the form of spurious criminal charges, public smear campaigns and surveillance operations, has been widely used by past and current authorities to deflect attention from human rights violations reported by defenders and to undermine the moral authority of the human rights movement, and standards in international human rights law which past and current governments of Mexico have committed themselves to uphold. State agents of all levels have been implicated in a wide range of abuses against human rights defenders, from the misuse of the legal system to torture and ill-treatment, attempted killings and threats. They have also been directly implicated, connived in or acquiesced in attacks carried out by armed civilians, paramilitaries, or local political bosses.

High-ranking government officials have tolerated these attacks, taking limited or insufficient action to deter or condemn them or ensure the punishment of those responsible in keeping with the law. In so doing, the authorities have acquiesced in covering up human rights violations. It is clear that in many cases the aim of the attacks against human rights defenders is to silence

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<sup>36</sup>Article 5, Declaration on Human Rights Defenders.

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or obstruct their complaints so that the perpetrators of human rights violations are not exposed and may evade criminal prosecution.

Action by the Offices of the Attorney General, which are responsible for all prosecution services in Mexico, to ensure those responsible for the cases examined in his report are held to account and brought to justice has been at best negligent, at worst obstructive. The virtual inability of the Offices of the Attorney General to impart justice for cases of human rights violations against human rights defenders has been exacerbated by the fact that many state agents accused of human rights violations are themselves agents of the Offices of the Attorney General. Independent and exhaustive investigations into attacks against human rights defenders are vital if harassment is to be halted. Digna Ochoa's killing on October 2001 was a clear demonstration of the confidence of those responsible that they will never be brought to justice.

The authorities' inability and apparent unwillingness to uphold the rights of human rights defenders under legal, physical or other forms of attack has engendered a deep distrust of many state institutions by the human rights movement. The authorities have repeatedly failed to protect defenders from abuses by failing to uphold standards of due process and due diligence in investigations. Worse still, members of the Offices of the Attorney General have themselves acquiesced with other authorities to file politically motivated charges against human rights workers and procure their detention. The failure of both past and current authorities to effectively respond to harassment of human rights defenders and the misuse of the judicial apparatus to persecute them has resulted in attacks against defenders from all levels of the state institutions.

The majority of cases of harassment of human rights defenders outlined in this report remain unresolved. Responsibility for ensuring the offenders are brought to justice and reparation awarded to the victims rests with the current government. By failing to halt the harassment of human rights defenders and by maintaining impunity for human rights violations, past and current governments violate international obligations and compromise international responsibilities. With regard to the government's duty to ensure proper investigations, the Inter-American Court of Human Rights has stated that:

“If the apparatus of the State acts in such a way that the violation remains unpunished and does not restore the victim, as far as possible, to the full enjoyment of his rights, it may be affirmed that the State has not fulfilled its duty to guarantee the free and full exercise of such rights by the persons subject to its jurisdiction.”<sup>37</sup>

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<sup>37</sup>Inter-American Court of Human Rights, Series C: Decisions and Judgments, No.4, *Caso Velázquez Rodríguez*, Judgement of July 29, 1988, par. 176 (Spanish version, free translation).

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Official efforts to protect human rights defenders at risk so that they may carry out their legitimate activities have been wholly inadequate. Practical measures to help defenders have consisted solely of the provision of police patrols, which have only materialized as a result of persistent international pressure, fuelling suspicion that such measures are little more than a public relations exercise. The fact that those providing such assistance have themselves admitted that they have been ordered to monitor defenders' activities is a regrettable indictment of the attitude of many authorities towards the promotion and protection of human rights.

Although the CNDH has, on occasion, produced broad recommendations on cases of harassment of human rights defenders, its attention to these cases has not been consistent and the authorities have frequently failed to comply with its recommendations. Human rights defenders have not reported any improvements since the setting up of the CNDH Program of Offences against Journalists and Civilian Human Rights Defenders.<sup>38</sup> Weak investigative methods, the practice of reaching "friendly settlements" without consulting the complainant and passing entire files regarding complaints of human rights violations to the same authorities implicated in the crimes, pose serious obstacles to overcoming the lack of public confidence in the Commissions.

The overall performance of the CEDHs varies from state to state. However, cases in this report demonstrate that the CEDHs in the states mentioned have been reluctant to deal with cases regarding human rights defenders. In June 2001, human rights defenders frequently told Amnesty International that the CEDHs had been informed of the incidents of harassment against them, formally or by way of newspaper reports or copies of official complaints filed with the authorities, but had not approached the defenders to initiate an inquiry. In meetings held with the CEDHs in Chihuahua, Oaxaca and Tabasco in June 2001 Amnesty International delegates found that the Commissions were uninformed of the existence, or importance, of the UN Declaration on Human Rights Defenders.

For many decades during the 1900s Mexico was characterised as authoritarian, corporatist-style state in which all national institutions, such as trade unions and the ruling political party were effectively a branch of the state. The frequent perception of the CNDH and CEDHs as government spokesperson or apologists, rather than human rights watchdog, demonstrates the difficulty in forging real independence in this climate. The corporatist tradition has signified that the federal and state authorities have been reluctant to accept the emergence of an independent human rights movement in civil society. Unable to co-opt this movement, they have sought to silence it, incriminate it or align it with the political opposition.

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<sup>38</sup> CNDH, Specific Work Program 2000.

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Amnesty International welcomes the apparent openness of the Government of Vicente Fox Quesada on issues of international collaboration on human rights, the participation of human rights organizations in the UN Technical Assistance Agreement and the open invitation the Mexican government has extended to UN mechanisms. However, the abuses examined by Amnesty International during 2001 indicate that patterns of widespread harassment of human rights defenders in Mexico continue, and will remain unchanged until the authorities adopt immediate measures and reforms that filter down to all levels of the state. This report shows that political willingness in the top echelons of the government has not filtered down to all levels of the state, and has so far proved insufficient to overcome the pattern of harassment of human rights defenders. The organization notes with serious concern the continued failure by the authorities to resolve past cases of harassment of human rights defenders. It also notes with serious concern cases of harassment against human rights defenders occurred in 2001, the number of unclarified pending criminal charges against defenders and the killing of human rights lawyer Digna Ochoa.

The treatment of the human rights movement by the authorities is one measure of a government's political will to adhere to the international treaties and conventions to which it is a party and which it has agreed to implement. A positive change in the practice of incriminating and harassing Mexican human rights defenders would constitute an unequivocal indication that the new government intends to move beyond rhetoric and make effective improvements to Mexico's poor human rights record.

## **Recommendations**

**Amnesty International urges the Government of Mexico to adopt and implement the following recommendations regarding the protection of human rights defenders and their work.**

The Government should:

1. Ensure that the principles contained in the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by the UN General Assembly on 9 December 1998, are fully incorporated into national law and mechanisms, including human rights commissions, for the protection of human rights. Authorities at all levels of government should explicitly commit themselves to promoting respect for human rights, and to the protection of human rights defenders. To this end, the President of the Republic and State Governors should meet with Mexican human rights defenders to ensure that mechanisms are established to implement and evaluate the implementation of the principles set out in the Declaration on Human Rights Defenders.

2. Ensure that, in the interest of fulfilling obligations contained in international human rights treaties and standards, state officials at every level of the state apparatus, including lower-ranking officials, fully collaborate with and facilitate the work of members of non-governmental human rights organizations, acknowledging the importance of independent scrutiny by civil society of the activities of state agents and the right to criticize government policy and practice on human rights regarding alleged violations against themselves or others.

3. Ensure that prompt, thorough and impartial investigations are conducted into all human rights violations committed against human rights defenders, that those responsible are brought to justice and the victims or their relatives provided with adequate reparation. Ensure that such investigations are independent and that those implicated in harassing human rights defenders are not those responsible for the investigations. The results of such investigations should be made public. Ensure that the Offices of the Attorney General immediately abstain from requesting or coercing human rights defenders to detract their legal complaints.

Members of the security forces under formal investigation for human rights violations should be immediately suspended from active service until all investigations have concluded. The Mexican Government should also set up information systems to ensure that no agent of the security forces dismissed because of possible involvement in human rights violations against human rights defenders is employed in a position where he/she could commit such violations again.

4. Effectively disband, disarm and prosecute all armed civilian groups and paramilitary groups which operate with the complicity or acquiescence of the security forces.

5. Ensure that the perpetrators of human rights violations, including those against human rights defenders, do not benefit from any legal (or other) measures exempting them from criminal prosecution or conviction.

6. Take effective action to ensure that all state agents, including all law enforcement officials and the security forces, recognize the legitimacy of the work of human rights defenders and abstain from making unsubstantiated allegations against human rights defenders. Such action should include the appropriate order or decree issued publicly by the President of the Republic to all federal and state authorities. Unsubstantiated defamatory statements must be rectified publicly and promptly and those responsible should face disciplinary action.

7. Take effective disciplinary action against state agents and officials who abuse the criminal process to the detriment of members of human rights and social organizations, with the intention of harassing them or curtailing their legitimate activities for the defence of human rights and fundamental freedoms. Mexican authorities should ensure that human rights defenders have equal access to the law and that judicial investigations and proceedings against them are

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conducted in accordance with international fair trial standards set out in the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights and the International Covenant on Civil and Political Rights. All human rights defenders imprisoned on account of their legitimate human rights activities should be released. In accordance with international standards and principles on human rights which are binding for Mexico, all politically motivated criminal charges against human rights defenders engaged in lawful human rights work should be dropped and the accused officially informed of the closure of the investigation.

8. Adopt integrated programs for the protection of human rights defenders that include preventative measures, such as thorough criminal investigations into attacks and threats against human rights defenders, wide dissemination of the principles of the UN Declaration on Human Rights Defenders, education for state agents on the right of human rights defenders to carry out legitimate activities, as well as security measures to assist human rights defenders and their families with immediate safety issues. Such programs should ensure that all measures to protect human rights defenders are adopted in accordance with the wishes of the person receiving protection.

9. Ensure full implementation of comprehensive witness protection programs for the protection of individuals, including human rights defenders, involved in investigations or other proceedings against those accused of human rights violations.

10. Ensure the full implementation of recommendations by international organizations and resolutions regarding human rights defenders, including precautionary or provisional measures, by the Inter-American human rights system, the OAS General Assembly, and the UN. Appropriate measures should be taken to monitor the implementation of these recommendations. Ensure that public officials or members of the security forces implicated in the harassment of human rights defenders are not those responsible for implementing precautionary or provisional measures.

11. Ensure full support for human rights protection mechanisms and initiatives within the UN and Inter-American human rights systems, including special rapporteurs, which support human rights defenders and their work. Support the establishment within the Inter-American Commission on Human Rights of the post of Special Rapporteur on human rights defenders.

12. Ensure the immediate and independent review of intelligence archives held by the federal and state security forces, or other official institutions, in order to ensure that past cases of abuses against human rights defenders are fully clarified, that those responsible are identified and brought to justice. In coordination with human rights defenders, establish the appropriate mechanisms to make the results of this review known and ensure that such abuses cannot be repeated in the future.

13. Dismantle all systems of surveillance, civilian or military, both at federal and state level, of the activities of human rights defenders, including taking appropriate measures to fully investigate past reports of surveillance with a view to ending all forms, legal or illegal, of telephone or electronic surveillance.

14. Ensure rigorous and independent investigations into reports of theft of information from the homes of human rights defenders or the premises of NGOs and ensure those found responsible are brought to justice.

15. Ensure that criminal defamation laws are not misused to curtail freedom of expression or to harass human rights defenders for the purpose of silencing them or shielding those implicated in human rights violations from prosecution by repealing all criminal defamation laws at federal and state level and replacing them, where necessary, with the appropriate civil defamation laws.

16. The appropriate federal authorities should meet with members of non-governmental human rights organizations to negotiate the appropriate legal framework to permit, amongst other things:

- full recognition of non-governmental human rights organizations within existing frameworks which recognize non-profit making social associations;
- mechanisms to endorse the participation of human rights defenders in the elaboration and execution of public human rights policies and programs;

17. Ensure the appropriate legal and political measures are taken to ensure that previous restrictions on international collaboration with the Mexican human rights movement cannot be recalled or reinstated in the future, regardless of the political authority in power.

### **Recommendations to the National and State Human Rights Commissions:**

1. In consultation with human rights defenders, establish an integrated policy on human rights defenders that promotes the implementation of the principles of the UN Declaration on Human Rights Defenders and preventative measures for their protection.

2. Formulate recommendations to federal and state authorities, in consultation with human rights defenders, regarding the implementation of UN Declaration on Human Rights Defenders. Publish regular reports regarding the authorities' compliance with these principles, in particular progress made on investigations into cases of violations against human rights defenders.

3. Conduct an independent revision of the implementation by the authorities of recommendations by the Inter-American human rights system on cases of harassment of human rights defenders.

4. Monitor and investigate *de officio* all reports of harassment against human rights defenders independently of whether an official complaint is made.
5. Take the necessary measures to ensure the safety and integrity of human rights defenders, as well as victims and witnesses, who provide information regarding alleged human rights violations. Such measures should include ending the practice of handing over entire files on reported violations to the authorities suspected of having been implicated in such violations.
6. Abstain from officially or unofficially requesting or coercing human rights defenders into retracting their complaints.
7. Ensure proper consultation and participation of the complainant in relation to negotiations with the authorities resolving cases by friendly settlement. Cases should remain open until the complainant is satisfied with the settlement reached.
8. Ensure that human rights defenders are informed frequently of the steps taken to clarify complaints they submit either regarding harassment against themselves, or cases of possible human rights violations.

## Appendix I

### **Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms**

*The General Assembly,*

*Reaffirming* the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

*Reaffirming also* the importance of the Universal Declaration of Human Rights and the International Covenants on Human Rights as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

*Stressing* that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

*Acknowledging* the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

*Recognizing* the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

*Reiterating* that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

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*Stressing* that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

*Recognizing* the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

*Declares:*

*Article 1*

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

*Article 2*

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

*Article 3*

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

*Article 4*

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from

the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

*Article 5*

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

*Article 6*

Everyone has the right, individually and in association with others:

(a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

*Article 7*

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

*Article 8*

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1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
  2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

#### *Article 9*

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.
2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.
3. To the same end, everyone has the right, individually and in association with others, *inter alia*:
  - (a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;
  - (b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;
  - (c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

#### *Article 10*

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

#### *Article 11*

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

#### *Article 12*

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

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*Article 13*

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

*Article 14*

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

*Article 15*

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

*Article 16*

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations

among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

*Article 17*

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

*Article 18*

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

*Article 19*

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

*Article 20*

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.

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## Appendix II

Mexico

### United Nations Treaties

The International Covenant on Civil and Political Rights (ICCPR), Accession 23 March 1981

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Ratification 23 Jan 1986

The Convention on the Elimination of All Forms of Discrimination against Women, Ratification 23 March 1981

The Convention on the Rights of the Child, Ratification 21 September 1990

The International Convention on the Elimination of All Forms of Racial Discrimination, Ratification 20 February 1975

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Ratification 8 March 1999

International Covenant on Economic, Social and Cultural Rights, Accession 23 March 1981

Convention relating to status of Stateless Persons, Accession 7 June 2000

Convention relating to the Status of Refugees, Accession 7 June 2000

Optional Protocol to the Convention of the Rights of the Child on the sale of children child, prostitution and child pornography, Signature only 7 September 2000

Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Signature only 10 December 1999

Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, Signature only 7 September 2000

Protocol relating to the status of Refugees, Accession 7 June 2000

Rome Statute of the International Criminal Court, Signature only 7 September 2000

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*AI Index: AMR 41/040/2001*

Inter-American Treaties

American Convention on Human Rights "Pact of San José, Costa Rica", Ratification 2 March 1981, jurisdiction of the Inter-American Court of Human Rights was accepted in 1 December 1998.

Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador", Ratification 16 April 1996

Inter-american Convention to Prevent and Punish Torture, Ratification 22 June 1987

Inter-american Convention on Forced Disappearance of Persons, Signed only 4 May 2001

Inter-american Convention on the Prevention, Punishment, and Eradication Of Violence Against Women "Convention of Belém Do Pará", Ratification 12 November 1998

Inter-american Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities, Ratification 25 January 2001