

MEXICO

Amnesty International's concerns regarding torture and ill-treatment in Mexico

Introduction

Torture and ill-treatment by law enforcement officers in Mexico continue to be of major concern to Amnesty International. Despite the Mexican Government's professed commitment to eradicating these practices and some important legal reforms and administrative measures, the widespread use of torture and ill-treatment against political or common law detainees in Mexico continue to be reported. Recent laws, adopted to combat organized crime, such as drug trafficking, might reinforce this practice.

The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the UN Convention against Torture) was ratified by Mexico in January 1987 and entered into force on 26 June 1987. Since then the Mexican Government has taken a number of preventive and punitive measures to curb the practice of torture and ill-treatment, including the reform – in December 1991– of the 1986 Federal Law to Prevent and Punish Torture, and the creation of the governmental *Comisión Nacional de Derechos Humanos, CNDH*, National Human Rights Commission, in 1990. Similar commissions have been created in all Mexican states and in the Federal District (for a critique of the work of governmental human rights commissions, see below). Some government authorities, including President Ernesto Zedillo Ponce de León, have acknowledged the gravity of the human rights situation in Mexico and have vowed to end impunity for perpetrators of torture and other abuses.

Alarming, despite these positive signs, torture and ill-treatment in Mexico continue to be widespread and even systematic in some states, such as Guerrero. Amnesty International has continued to report on this practice, including in the following documents: *Mexico: The persistence of torture and impunity* (AI Index: AMR 41/01/93, June 1993); *Human rights violations in Mexico: A challenge for the nineties* (AI Index: AMR 41/21/95, November 1995); and *Overcoming fear: Human rights violations against women in Mexico* (AI Index: AMR 41/09/96, March 1996). During 1996, the organization issued 36 urgent appeals on behalf of at least 265 individuals who were at risk of being tortured or had suffered torture in Mexico during the year. Moreover, from January to mid-March 1997, the organization has already issued eight urgent appeals concerning at least 18 individuals at risk of torture or ill-treatment. At least eight of these had been reportedly tortured by the

security forces while in detention¹. The cases included in these appeals represent a small percentage of all cases reported to Amnesty International.

Among the torture methods reported to the organization, detainees continue to be subjected to electric shocks; semi-asphyxiation with plastic bags or by submersion under water; death threats; mock executions; beatings using sharp objects, sticks or rifle butts; rape and sexual abuse; forcing carbonated water up the detainee's nose (a method known as "*tehuacanazo*") or slapping both ears at once (the "*telephone*"). In some cases, detainees who had been tortured were seen by medical examiners, most of whom failed to certify their injuries or recommend medical care.

For example, Félix Armando Fernández Estrada, a tradesman and political activist, was arrested in Mexico City on 20 October 1994 by three armed men later identified as members of the *Policía Judicial del Distrito Federal, PJDF*, Federal District Judicial Police. He was bundled into a car and taken to an unknown destination. He was then undressed, tape was placed over his eyes, and he was tied up and forced to the ground, where he was kicked, punched and dragged by the testicles across the floor. He was interrogated in connection with a number of bomb attacks in Mexico City during January 1994. A polyurethane bag was put over his head as he lay on the ground and carbonated water was forced up his nose. At one point, Félix Armando Fernández lost consciousness as a result of having a plastic bag put over his head. He was also tortured with electric shocks. He was made to sign a declaration after being warned that if he did not do so he would be killed. His interrogators also threatened to torture and kill members of his family.

During his detention he was denied access to a lawyer or to a representative of the Public Ministry. On 21 October 1994, he was examined by a doctor of the *Procuraduría General de Justicia de la República, PGR*, Attorney General's Office, but was denied medical treatment. Three days later he was transferred to the *Reclusorio Preventivo Norte*, a prison in Mexico City, where a prison doctor performed a superficial examination but failed to certify his serious injuries. Félix Armando Fernández was never offered medical assistance while in detention, despite his request for help².

Some detainees have died as a consequence of torture. For example, on 8 July 1996, Pedro Valoy Alvarado and 17-year-old Marcelino Zapoteco Acatitlán, members of

¹See, for example, UA 14/97, AMR 41/01/97, 15 January 1997; UA 30/97, AMR 41/03/97, 28 January 1997; Further information (4) on Extra 91/96, AMR 41/06/97, 7 February 1997; UA 56/97, AMR 41/09/97, 3 March 1997; UA 64/97, AMR 41/10/97, 10 March 1997; Further information on UA 64/97, AMR 41/11/97, 12 March 1997; and Further information (2) on UA 64/97, AMR 41/12/97, 14 March 1997.

²This and other cases are described in *Human rights violations in Mexico: A challenge for the nineties*, AI Index: AMR 41/21/95, published in November 1995.

the *Organización de Pueblos y Colonias de Guerrero*, a peasant organization, were detained by the state police in Chilpancingo, state of Guerrero, and tortured in a local police station to confess to burglary. Pedro Valoy Alvarado was released two days later, but Marcelino Zapoteco Acatitlán, a Zapotec Indian, remained in detention with serious injuries, from which he died on 15 September 1996. To Amnesty International's knowledge, no one has been brought to justice for the death of Marcelino Zapoteco Acatitlán and the torture suffered by Pedro Valoy Alvarado.

Most of Amnesty International's recommendations to the Mexican Government to end the practice of torture and the impunity for the perpetrators, which were included in the documents mentioned above, have yet to be adopted or implemented by the Mexican authorities. Amnesty International believes that without a clear political will to effectively implement anti-torture measures, this atrocious crime will continue to prevail in a country which has otherwise made a formal commitment to end torture.

Limitations of legal reforms relating to the prevention and punishment of torture

The 1991 reform of the *Ley Federal para Prevenir y Sancionar la Tortura*, Federal Law to Prevent and Punish Torture (originally enacted in 1986), incorporated new safeguards to protect criminal defendants from torture and other forms of coercion during criminal investigations, including the provision of interpreters for speakers of languages other than Spanish; increased the penalties for the crime of torture and included provisions for the payment of compensation to the victims. These changes, coupled with reforms of the *Código Penal Federal*, Federal Code of Penal Proceedings and the *Código Penal del Distrito Federal*, Federal District Code of Penal Proceedings, expanded the Constitutional safeguards against torture -- which continued to be widely reported due to the lack of a firm political will to implement them.

Furthermore, some reforms enacted between 1993 and 1996, have eroded a number of the earlier legal and administrative improvements. For example, changes to Article 16 of the Mexican Constitution, reformed in September 1993, further empowered the *Ministerio Público* (Public Ministry, or public attorney, the official investigative authority under the responsibility of the federal or state attorney general's offices -- *procuradurías generales de justicia*), to detain criminal suspects without a judicial order. The Public Ministry is the agency responsible for the judicial police and the forensic services. It has exceptional powers in the Mexican criminal justice system, including the exclusive right to open criminal investigations, as well as bringing charges against defendants before the courts and investigating and substantiating these charges (see below).

Mexican human rights organizations have pointed out that while judges need to present proof (*acreditar*) of the elements which constitute the crime (*el tipo penal*) and the

probable responsibility of the accused (based mostly on the evidence forwarded by the Public Ministry), the Public Ministry is only required to enumerate and give the basis for the reasons that motivate the detention (*fundar las razones de la detención*). In practice, the courts rarely contest the charges and evidence -- including "confessions" -- presented by the Public Ministry. Furthermore, the concepts of "detention" and "apprehension" are used separately but without a clear juridical interpretation of the limits to the power of the Public Ministry to detain a suspect without an arrest warrant.

Other changes to Article 16 stipulate that suspects can be detained for up to 48 hours under the jurisdiction of the Public Ministry -- instead of the previous 24-hour-limit -- and for up to 96 hours if the crime is considered, by the definition of the law, to be part of organized crime (*delincuencia organizada*). According to the law, the Public Ministry must take a defendant, if detained without a judicial order or allegedly caught in *flagrante delicto*, before a judge within these time limits. Suspects arrested as a consequence of a judicial order must be taken before a judge "without delay" (*sin dilación alguna*). Such formal time limits for pre-trial detention are rarely respected by the Public Ministry, often leading to great delays in the presentation of suspects before the courts. Most of the torture reported in Mexico takes place during the hours following arrest, while detainees are under the jurisdiction of the Public Ministry, and before they are taken before a judge -- see for example, the case of Teodoro Juárez Sánchez, mentioned below³.

Continued use of forced "confessions" in criminal investigations

Amnesty International believes that one of the principal reasons why torture is still widespread in Mexico is the continuing lack of effective protection against human rights violations suffered by detainees, especially those who have little or no recourse to independent legal counsel because of social or economic constraints. Most reports of torture and other human rights violations received by the organization continue to occur in the context of the administration of justice, especially during the investigative and prosecutorial phases of criminal proceedings. Amnesty International is also receiving a growing number of reports of torture of political detainees by the security forces.

As outlined above, the early stages of criminal investigations in Mexico continue to be under the exclusive responsibility of the Public Ministry: the office is in charge of investigating and prosecuting crimes under its jurisdiction; procuring, evaluating and

³See also *Human rights violations in Mexico: A challenge for the Nineties*, AMR 41/21/95; Urgent Actions (UAs) mentioned in footnote 2, and the following UAs: Extra 103/96, AMR 41/34/96, 5 July 1996; UA 190/96, AMR 41/40/96, 30 July 1996; Further information on Extra 103/96, AMR 41/37/96, 18 July 1996; Further information on UA 190/96, AMR 41/41/96, 1 August 1996; Further information on Extra 103/96, AMR 41/50/96, 29 August 1996 and AMR 41/69/96, 4 November 1996; UA 252/96, AMR 41/68/96, 1 November 1996; Further information on UA 252/96, AMR 41/77/96, 19 November 1996.

presenting evidence before the courts; requesting that sentences be imposed; and ensuring that the legal rights and guarantees of defendants, including the right to due process, are fully respected. It is also responsible for investigating complaints of human rights violations by law enforcement officers under its own jurisdiction, which compromises the impartiality and objectivity of such investigations. A non-governmental human rights organization in Mexico has summarized the above, by pointing out that “given all its powers, the Public Ministry becomes a type of investigating judge, leaving the task of confirming the actual sentence to the courts” (“*con todas estas facultades, el Ministerio Público se convierte en una especie de juez instructor, reservándose a los jueces la función de confirmar... lo actuado*”⁴).

Confessions continue to be considered the “queen of evidence” (*la reina de las pruebas*⁵) in judicial proceedings. Most judges continue to accept these initial confessions as valuable evidence, even when detainees retract their previous statements before the courts proving they were extracted under duress, and no other evidence is available to substantiate the charges against them. Article 20, part II of the Mexican Constitution (also reformed in 1993) states that only statements made by a defendant before the Public Ministry or a judge and in the presence of legal counsel (*defensor*) have judicial value as evidence against the defendant⁶. In practice, statements of guilt obtained by agencies other than the Public Ministry (such as the police) or without the presence of a lawyer or attorney, continue to be routinely accepted by judges⁷.

According to Mexican jurisprudence, the initial statement of a detainee before the authority which realized the arrest carries more weight than subsequent statements. Criminal investigations are, therefore, normally focused on obtaining an early confession from a suspect during pre-trial detention. The present Attorney General of the Republic, Jorge Madrazo de Cuéllar, acknowledged in February 1997 that the judicial police in Mexico “was not really prepared to carry out (criminal) investigations” (“*no estaba verdaderamente preparada para hacer investigación*”) and has reportedly begun the reorganization of several sectors of the Attorney General’s Office in charge of criminal investigations. These measures, according to the Attorney General, would include the

⁴Red Nacional de Organismos Civiles de Derechos Humanos “Todos los Derechos para Todos” *et al.*, *Informe sobre la situación general de los derechos humanos en México* (report prepared for the visit to Mexico of the Inter-American Commission on Human Rights), 17 July 1996; p. 37.

⁵*Ibid.*, p. 40.

⁶Similar wording can also be found in the Federal Code of Penal Proceedings and the Federal District Code of Penal Proceedings.

⁷See Extra 103/96 and further information, cited in footnotes 2 and 3.

development of new methods and procedures to investigate crime, taking advantage of technological advances to “create a true scientific investigation of crimes which will guarantee effectiveness while fully respecting human rights and the principle of legality”.

While Amnesty International welcomes these positive steps to reform the PGR, the organization is, nonetheless, concerned that these measures may not be effective to stop torture without the adoption of urgent reforms within the judicial system to ensure that statements extracted under duress, or without all the necessary provisions for a fair trial (including effective legal counsel available to all detainees), are not accepted as evidence in a court of law.

Amnesty International believes that the practice of torture in Mexico is not only caused by corruption and lack of resources in the initial stages of criminal investigations, but by a judicial system which gives confessions, regardless of the circumstances in which they are obtained, full weight as evidence. According to Mexican law, when the defendant does not support with other evidence his or her claims that the initial statement was obtained under duress, this claim, by itself, is not sufficient to invalidate his confession⁸. Alarming, most judges will not initiate an investigation on the basis of such claims by a defendant to establish whether or not he or she suffered torture or ill-treatment. Moreover, judges will generally not reject a defendant's confession as evidence, even when presented with forensic evidence which proves that torture took place during detention.

For example, during 1996, scores of peasant activists in the states of Guerrero and Oaxaca were tortured to confess to having links with the *Ejército Popular Revolucionario*, *EPR*, Popular Revolutionary Army, an armed opposition group. Among these were Teodoro Juárez Sánchez, who was detained without an arrest warrant on 1 July 1996 in Yerbasantita, near Tepetitla, state of Guerrero by members of the Mexican army. He was tortured for several days in unacknowledged detention before being taken to a judge in Acapulco. Teodoro Juárez testified before the judge that the Guerrero state police had beaten him, subjected him to electric shocks and held his head under water in order to force him to confess to being a member of the EPR. Reports indicate that he had no access to a doctor or a lawyer. He remains in detention on charges of conspiracy and carrying firearms for the exclusive use of the armed forces⁹, based solely on his confession extracted under duress. To date there has been no investigation into his allegations of torture and no one has been brought to justice¹⁰.

⁸*Jurisprudencia 472, Apéndice al Semanario Judicial de la Federación 1917-1988*, page 818. Quoted in Red Nacional de Organismos Civiles de Derechos Humanos *et al.*, Op. Cit., p. 43.

⁹*conspiración y portación de armas de fuego de uso exclusivo de las fuerzas armadas.*

¹⁰See Extra 103/96, AMR 41/34/96, 5 July 1996; Further information AMR 41/37/96, 18 July 1996, AMR 41/50/96, 29 August 1996 and AMR 41/69/96, 4 November 1996.

The lack of effective access to legal counsel, as well as interpreters for non-Spanish speaking indigenous defendants, continue to be of concern to Amnesty International. Lawyers working for the State are inadequately prepared, badly paid, with few resources assigned to them, and severely overworked. Their lack of independence from the courts seriously undermines their impartiality. Moreover, while the provision of interpreters for non-Spanish speaking indigenous defendants is mandatory by law, these are rarely available and most indigenous people facing trial in Mexico continue to suffer the lack of this basic right.

A recent study by the Assembly of Representatives of the Federal District (*Asamblea de Representantes del Distrito Federal*) and the Human Rights Commission for the Federal District (*Comisión de Derechos Humanos del Distrito Federal, CDHDF*) has highlighted these problems and how they undermine the prevention of human rights violations, including torture. The poor and the underprivileged, who are unable to pay private lawyers, are the constant victims of these failures. The Assembly of Representatives and the CDHDF have proposed the creation of a decentralized organ in charge of, among other things, training, monitoring and supervising the city's legal counsels.

Continuing impunity and the Federal Law to Prevent and Punish Torture

Amnesty International remains deeply concerned about the effective immunity from prosecution usually enjoyed by law enforcement officials involved in the practice of torture. This continues to be evident even in those cases of torture which have been fully documented by the National Human Rights Commission and where recommendations to investigate reports of torture and punish those responsible have remained unheeded by the relevant authorities.

One such case involves the detention and torture of suspected members of the *Ejército Zapatista de Liberación Nacional, EZLN*, Zapatista National Liberation Army (an armed opposition group), in Yanga, state of Veracruz, and in Cacalomacán, state of Mexico, in February 1995. The suspects were subjected to prolonged periods of interrogation and torture to obtain confessions. The torture consisted of electric shocks, beatings, kicking, "telephone" blows (simultaneous blows to both ears which can rupture ear-drums and permanently damage the person's hearing), near asphyxiation, death threats and mock executions. They were all forced to sign "confessions".

The CNDH established, in the case of the detainees from Yanga, that from the evidence obtained, "there is no doubt that there was torture in this case". In the case of Cacalomacán, the CNDH stated that the injuries sustained by these detainees "were characteristic of a probable excess in the use of public force." The eight Cacalomacán

detainees were released without charge in November 1996, while the seven from Yanga were freed without charge in January 1997. No one has been brought to justice on account of the torture and ill-treatment suffered by these people.

Despite the prevalence of torture in Mexico and the hundreds of complaints filed by victims and their relatives before the Mexican authorities, to date Amnesty International is not aware of any government official which has been sentenced under the Federal Law to Prevent and Punish Torture. Moreover, the organization is not aware of any other sentences under state laws prohibiting torture (only Hidalgo and Puebla lack laws against torture). Members of the security forces accused of torture are sometimes indicted and sentenced under other charges such as "abuse of authority" (*abuso de autoridad*), which carry lesser penalties and allow their release on bail. While some law enforcement officials are dismissed for human rights violations, they are readily recruited by similar agencies in other jurisdictions. This has been acknowledged by the chief of the Mexico City police, General Enrique Salgado Cordero, who pledged in July 1996 to create a data bank, similar to those used to track criminals, to list the record of every police officer. He reportedly stated that those with persistent complaints would be dismissed from the force or prosecuted. Government human rights officials, such as the head of the CDHDF, have urged the creation of this data bank to stop "bad officers from entering other [police] corporations" ("*evitar que los malos elementos puedan ingresar a otras corporaciones*").

According to Article 11 of the Federal Law to Prevent and Punish Torture, all state officials (*servidores públicos*) who know about a case of torture must report it immediately to the relevant authorities. This does not happen in practice and according to a Mexican human rights organization, such provision is a "dead letter" (*letra muerta*¹¹).

The lack of prosecutions against members of the security forces who torture perpetuates its use in the administration of justice, as a relatively quick and inexpensive method of obtaining a result which will be usually upheld by a court of law. In other cases torture continues to be used as a means of intimidating or punishing detainees, who often lack the means to seek redress before the courts.

Torture by the armed forces

The growing militarization of public security as well as the increase of anti-narcotics and counter-insurgency operations carried out by the army in Mexico, has seriously increased the number of reports of human rights violations by members of the Mexican armed forces.

Alarming, military jurisdiction has systematically blocked attempts by victims and their representatives to seek punishment for those responsible for human rights violations. For

¹¹Red Nacional de Organismos Civiles de Derechos Humanos *et al.*, Op. Cit., p. 39.

example, three sisters, María Teresa Méndez Santiz (20), Cristina Méndez Santiz (18) and María Méndez Santiz (16), Tzeltal Indians, were tortured on 4 June 1994 by soldiers of the Mexican army near Altamirano, in the state of Chiapas. They were detained at a military roadblock while returning with their mother to their community of Santa Rosita Sibaquil. The soldiers detained them and took them to a nearby building where they were accused of supporting the EZLN. The soldiers beat the women with their weapons and kicked them to extract information. They were then raped by about 10 soldiers before being released without charge on the same day.

Local human rights monitors filed the women's complaints, which were accompanied by medical reports certifying the injuries, with the local Public Ministry on 30 June 1994. Weeks later, the human rights monitors received death threats for taking up this case. The Public Ministry reportedly failed to carry out any investigation into the complaints. The Mexican army has continued to deny the accusations of torture and rape against the three Tzeltal women. On 1 July 1994 the *Secretaría de Defensa Nacional*, Defence Ministry, rejected charges made against military personnel in the case and threatened to file criminal complaints against those who, the army claimed, had slandered the institution. In September 1994 the case was transferred to military jurisdiction, without the knowledge of the lawyers representing the three women. When the lawyers and several members of local human rights organizations complained to the Military Public Ministry about the transfer of the case, they were reportedly threatened by members of the security forces.

Amnesty International has repeatedly expressed its concern that the transfer of the case to military jurisdiction could result in the stalling of the investigations, that no fair and impartial hearing would take place and that those responsible would not be prosecuted. In a meeting with Amnesty International delegates in November 1995, military authorities from the SEDENA stated that the failure to proceed with investigations was due to the fact that the three women had failed to answer summonses from the military court overseeing the case to confirm their testimonies¹². As of March 1997 no one had been brought to justice, nor had the victims received any compensation.

Recent cases of torture reported to the organization, in which the armed forces were involved in the detention and torture of detainees, include the arbitrary arrest of Felipe Sánchez Rojas, chairperson of the *Centro de Desarrollo Regional Indígena*, CEDRI, Regional Indigenous Development Centre, a non-governmental organization in the city of Oaxaca, state of Oaxaca, on 29 October 1996. Following his release five days later, Felipe Sánchez denounced that he had been tortured, including beatings and blows to

¹²See *Overcoming fear: Human rights violations against women in Mexico*, AMR 41/09/96 and *Human rights violations in Mexico: A challenge for the nineties*, AMR 41/21/95.

his ears while being questioned by members of the security forces. Felipe Sánchez had reported that, before his detention, the CEDRI had been under surveillance by unidentified individuals and members of the Mexican army¹³.

The Comisión Nacional de Derechos Humanos and State Human Rights Commissions

As mentioned above, the National Human Rights Commission (CNDH) was created in 1990 by presidential decree and given Constitutional status in 1992. Amnesty International has welcomed the government's decision to create the CNDH and similar offices in every state. Nevertheless, the organization remains concerned that a considerable number of state and federal authorities fail to fully comply with the commissions' recommendations, especially in relation to investigations of torture and the prosecution of those found responsible. The lack of compliance with the recommendations carry no legal penalties and no court has the duty to enforce them.

In many cases, recommendations are considered by the CNDH or other state human rights commissions to have been complied with, even when investigations are not completed and arrest warrants are not carried out.

In 1992, the CNDH issued recommendation 156/92 in the case of the torture of inmates at the *Centro de Readaptación Social*, a prison in San Luis Potosí (see *Mexico: The persistence of torture and impunity*, AI Index: AMR 41/01/93, p. 10). In 1994 the recommendation, which involved the issuing of arrest warrants against those found responsible, was considered fully complied with by the CNDH, although the arrest warrants were not carried out until January 1996 when the former director of the prison was briefly detained. The *Red de Derechos Humanos "Todos los Derechos para Todos"*, a network of human rights organizations in Mexico, points out that the Mexican Government enforced the arrest warrant only when the case was presented before the *Comisión Interamericana de Derechos Humanos*, Inter American Commission on Human Rights, by non-governmental organizations. Like most cases of torture in Mexico reported to Amnesty International, the victims received no compensation.

In March 1994, the CNDH issued recommendation 35/94 in the case of Manuel Manríquez San Agustín, an Otomí indigenous musician who had been tortured in detention in 1990 (see *Mexico: The persistence of torture and impunity*, pages 6-8). In its recommendation, the CNDH requested a full investigation into the allegations of torture and that the respective penal action be initiated against those responsible. In its 1995-1996 Annual Report, the CNDH states that recommendation 35/94 has been fully

¹³See UA 249/96, AMR 41/67/96, 30 October 1996 and Further information AMR 41/78/96, 19 November 1996.

complied with, as two police agents had been charged with the torture of Manuel Manríquez San Agustín and warrants had been issued for their arrest. According to information received by Amnesty International, only one of the officers is currently in detention, awaiting trial. The other officer is still at large. Manuel Manríquez San Agustín continues to serve a 24-year prison sentence for murder, based solely on his “confession” extracted under duress.

The CNDH maintains that torture in Mexico is on the decrease, as they continue to receive relatively fewer complaints as compared to other human rights violations reported to the agency. In their 1995-1996 Annual Report, the CNDH establishes that torture fell to the 17th place in terms of total complaints received by the agency (torture complaints accounted for 0.7 percent of all complaints received by the CNDH in the period May 1995-May 1996). However, the figures provided do not account for the number of complaints received by the state human rights commissions, which have the duty to investigate complaints of human rights violations at the state level. State human rights commissions, according to the *Red de Derechos Humanos*, have a very poor record in resolving cases presented to them: during the years 1994-1996, nearly 50 percent of recommendations published by the CNDH were related to complaints (*quejas de inconformidad*) brought against state human rights commissions¹⁴.

Recommendations

Amnesty International has welcomed the measures so far adopted by the Mexican Government to eradicate the practice of torture and ill-treatment. However, the organization notes with grave concern that such practices continue to be reported on a wide scale, most of the perpetrators continue to benefit from impunity and the victims receive no compensation. Amnesty International believes that there continues to be a substantial lack of political will to implement the relevant legal and administrative measures adopted by Mexico since signing the UN Convention against Torture. The organization takes the opportunity of the 18th Session of the UN Committee against Torture to urge the Mexican authorities to make effective their purported commitments to prevent and punish torture and ill-treatment in Mexico.

Over the past five years, Amnesty International has repeatedly urged the Mexican Government to improve respect for human rights in Mexico, including over 70 recommendations aimed at reducing the number of human rights violations in that

¹⁴Red Nacional de Organismos Civiles de Derechos Humanos *et al.*, Op. Cit., p 162.

country.¹⁵ These are some of the most important recommendations relating to the eradication of torture and ill-treatment:

1. Arrests should only be authorized in the case of *flagrante delicto* or where a judicial warrant exists; authorization in the absence of these conditions should not be granted on the pretext that no judge was available. All detentions should be carried out under strict judicial control and by authorized personnel only. All detainees should be brought promptly before a judge. All detainees should receive an oral and written explanation, in a language they understand, of the specific reasons for their arrest and of how to avail themselves of legal rights.
2. There should be a clear and complete separation between the authorities responsible for detention and those responsible for the interrogation of detainees. The role of the Public Ministry should be thoroughly revised in order to ensure full respect of all Constitutional rights of detainees and criminal defendants under its responsibility. A special office, with jurisdictional powers and independent from the Attorney General's Office, should be established to guard against and investigate, abuses by the federal and state Public Ministry.
3. Interrogation of detainees should take place in the presence of a lawyer (and an interpreter where necessary) to ensure that statements taken in evidence from a detainee are given freely and not as a result of any form of coercion. Confessions obtained as a result of torture, ill-treatment or other forms of coercion, should never be admitted in legal proceedings, except as evidence against the perpetrators. Defendants who were convicted on the basis of coerced confessions should have their convictions promptly reviewed. Judges should be vigorous in examining the legality of detention and the physical condition of defendants, and in investigating all claims of torture.
4. The government should ensure the provision of effective legal assistance, free of cost, to all defendants without resources, as from the moment of detention. In addition, interpreters should be provided for all non-Spanish speaking defendants, without exception, during all stages of criminal proceedings.
5. All reports of suspected torture or other gross human rights violations should be promptly, thoroughly and impartially investigated. Any government official, including military personnel, who suspects that torture or other human rights violations has been committed should report it to the relevant authorities, which

¹⁵For a full list of recommendations, please see *Human rights violations in Mexico: A challenge for the nineties* (AMR 41/21/95), *Mexico: The persistence of torture and impunity*, (AMR 41/01/93) and *Mexico: Torture and impunity* (AMR 41/04/91).

should fully investigate such reports. The involvement or complicity of health professionals in the torture or ill-treatment of detainees should be thoroughly and impartially investigated. Any government official who is responsible for torture or other human rights violations, or for ordering, encouraging or condoning these practices, should be brought to justice. Any official charged in connection with human rights violations should be immediately suspended from duties directly related to arresting, guarding or interrogating detainees. If convicted, they should be automatically dismissed from duty, in addition to whatever punishment is imposed by the court. An effective, public information system will be set up to prevent state officials dismissed for human rights violations from being reassigned to similar posts in other jurisdictions.

6. Torture and ill-treatment of civilians by members of the armed forces should be investigated and tried in civilian courts.
7. Recommendations from governmental human rights agencies, such as the National Human Rights Commission (CNDH) and its counterparts in every state and the Federal District, should be promptly and effectively implemented by the corresponding authorities. Failure to do so should hold them accountable to jurisdictional authorities.
8. The Mexican Government should declare, under Article 22 of the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, that it recognizes the competence of the UN Committee against Torture to receive complaints from individuals who claim that the government has violated its obligations under the Convention.