

PUBLIC

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Detention without charge/ fear of ill-treatment or torture

12 May 2005

MEXICO

Pascuala Gutiérrez Alvarez (f), aged 19, student

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Pascuala Gutiérrez Alvarez, a Tzeltal indigenous woman, was reportedly arrested on 8 April in San Cristóbal de las Casas, Chiapas State. She is being detained without charge in a safe house (*casa de arraigo o seguridad*) at the Prosecutor's Office (*Fiscalía General de Justicia del Estado*). Amnesty International is concerned for her safety as she is at risk of torture or ill-treatment.

Pascuala Gutiérrez was detained without an arrest warrant in connection with an alleged kidnap. After 6 hours she was brought before the State Prosecutor's Office who applied for her to be held in one of their safe houses, while they investigated her possible involvement in crimes of kidnapping and extortion. The Judge granted the request and recently extended this pre-charge detention period for a further 30 days. Her family have managed to visit her and her lawyer has been allowed limited access, but told Amnesty International that he has not been informed of the accusation against her or the basis for the investigation.

In Mexican law, a judge may order a type of informal detention (*arraigo*) if prosecutors do not have enough evidence to file charges against a suspect after arrest and by arguing that there is a risk of the suspect fleeing during the subsequent investigation. In Chiapas, legislation encourages judges to routinely grant such requests – which may be extended up to 90 days. This has led the Prosecutor's Office to create a number of safe houses to hold suspects without filing charges while carrying out investigations. These facilities often deny or obstruct access to families, lawyers and doctors and create a form of precharge custody. Amnesty International has frequently received complaints of torture, ill-treatment and undue pressure on suspects in such custody resulting in evidence that may be used to formulate charges and secure convictions. *Casas de arraigo* undermine the fundamental rights of persons in detention, encourage the use of coercion and violate fair trial guarantees. The United Nations and other international organizations have called for an end to their use.

**RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Spanish or your own language:**

- expressing concern for the safety of Pascuala Gutiérrez Alvarez;
- urging that she not be subject to torture, ill-treatment or coercion while in pre-charge detention;
- calling for her to be allowed full access to her family, lawyer and medial attention if necessary;
- calling for her to be charged with a recognizably criminal offence or released;
- if she is to be charged, calling for due process and fair trial standards to be upheld;
- urging the authorities to investigate the legality of her detention and subsequent pre-charge detention;
- urging that the authorities to end the use of *arraigo* (pre-charge detention);
- calling for reform of legislation to ensure constitutional guarantees restricting the time period suspects may be held without charge are upheld.

**APPEALS TO:**

Attorney General of Chiapas

Mariano Herrán Salvatti

Fiscal General de Justicia del Estado de Chiapas

Libramiento Norte s/n

Infonavit el Rosario

Tuxtla Gutiérrez, Chiapas, México

**Fax: + 52 961 616 5724**

**Salutation: Dear Attorney General / Señor Procurador**

Governor of Chiapas

Pablo Salazar Mendiguchia  
Gobernador del Estado de Chiapas  
Palacio de Gobierno del Estado de Chiapas  
Av. Central y Primera Oriente  
Colonia Centro, C.P. 29009  
Tuxtla Gutiérrez, Chiapas, México

**Fax: + 52 961 612 5618**

**Salutation: Dear Governor / Señor Gobernador**

Director of Human Rights - Interior Ministry

Maestro Ricardo Sepúlveda  
Secretaría de Gobernación  
Reforma 99, PISO 21, PH  
Colonia Tabacalera  
C.P. 06030, Mexico D.F. México

**Fax: + 52 55 51 28 02 34 (if someone answers the phone ask for "tono de fax, por favor")**

**Salutation: Dear Sir / Estimado Maestro**

**COPIES TO:**

Human Rights NGO

Centro de Derechos Humanos Fray Bartolomé de las Casas  
Brasil# 14 Barrio Mexicanos  
CP 29240, San Cristóbal de las Casas, Chiapas, México

**Fax: +52 967 6783551 (ask for "tono de fax, por favor")**

Defence Lawyer:

Jesús David Pineda Carpio,  
Prolongación Insurgentes No. 163, Barrio de María Auxiliadora,  
San Cristóbal de Las Casas, Chiapas, Mexico

and to diplomatic representatives of Mexico accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 23 June 2005.