

£MEXICO: @Mexico: Torture with impunity: Government Reactions

On 18 September, Amnesty International published the report **Mexico: Torture with impunity** (AI Index: AMR 41/04/91) in conjunction with a press release. Two months after the publication of this report, the organization has still not received an official response from the Mexican Government, although some Mexican authorities have publicly referred to it. This circular contains a synthesis of the government's reaction to the report.

1.- The Republic Attorney's General Office:

On 18 September 1991 the Republic Attorney General, Ignacio Morales Lechuga, called a press conference at 6:00 pm local time in Mexico City. The Attorney General said that abuses by officials under his responsibility would not be tolerated and that those responsible would be dismissed and brought to trial. He said that since he took office in May 1991 a number of federal police officials had been dismissed for committing abuses and that 39 had been prosecuted, including two federal judicial police commanders.

During the press conference the Attorney General referred only briefly to AI's publication on Mexico. He welcomed the report, which he described as very "serious" and "valuable". He admitted that torture did exist in Mexico, although only as "isolated cases", and added that the report would be thoroughly analyzed in due course.

The Republic Attorney General's announcements of dismissals and prosecutions against several police officials, and his positive attitude towards AI's report was interpreted by most of the press as a sign of an important change in the policy of the Republic Attorney General's Office regarding human rights.

Amnesty International welcomed the Republic Attorney General's statements, but noted that the Republic Attorney General's Office gave no details about who had been dismissed and/or prosecuted, nor why. It later became known that most of the sanctions against officials, announced by the Republic's Attorney General during his 18 September press conference, were apparently not related to human rights abuses. For example, many, including high ranking federal officials, had been dismissed after they were found to be responsible for drug trafficking and corruption, following an incident in the Matamoros prison, state of Tamaulipas, in May 1991.

Amnesty International also remains deeply concerned that, despite hundreds of complaints of torture which have been presented to the relevant authorities, the organization has received very few reports of Mexican officials dismissed and/or prosecuted for human rights violations, and that since the approval of the 1986 Federal Law to Prevent and Punish Torture, no Mexican official has apparently been convicted yet under this law.

Finally, Amnesty International remains gravely concerned that following the Attorney General's press conference it has continued to receive reports of torture and other human rights abuses by members of the federal judicial police and other officials, and that most of those responsible for past and present human rights violations continue to remain at large.

2.- The National Human Rights Commission:

a) Preliminary Special Report:

On 25 September 1991, the National Human Rights Commission issued a special report about the latest developments regarding its work. The report, which is a preliminary version of the Commission's bi-annual report to be published in December, was issued as a public response to a "wave of questions" received by the Commission following the publication of reports, including AI's, regarding the human rights situation in Mexico.

In its report, the Commission outlines the work done since its creation in June 1990, during which time it has received 4868 complaints, and has issued recommendations to the relevant authorities regarding 119 well documented cases of human rights violations. The report describes the developments in 52 of these cases, many of which involved torture, about which the Commission said it had confirmation that sanctions had been imposed against the corresponding officials. An additional list gives further detail about the Commission's work regarding 11 cases (some of which are mentioned in the previous list), which resulted in recommendations. Finally, the report refers to two other recent cases of human rights violations investigated by the Commission, which had not as yet given rise to recommendations at the time of publication.

In its report, the Commission admits that torture exists in Mexico today, but contends that its frequency is diminishing. It says that 40 of the cases mentioned in AI's report **Mexico: Torture with impunity** are known to the Commission. It also says that recommendations regarding 30 of those cases have been "completed", and that 10 other cases are under investigation, without further details. The report lists a series of cases mentioned in AI's report about which the Commission says it has no knowledge, including some widely publicized cases, as for example, that of the torture and killing of Emiliano Olivas Madrigal, (page 18 of **Mexico: Torture with impunity**). This case is one of the very few in which those responsible have been brought to justice: in June 1991, three police officers charged with Emiliano Olivas Madrigal's killing were found guilty of his murder (not torture), and

sentenced to long term imprisonment. Amnesty International is concerned that such a widely publicized case has apparently not been brought to the attention of the Commission. If indeed this case is unknown to the Commission, it is an example of the limited monitoring capacity of this office. Amnesty International fears there may be many other such cases unknown to the Commission and which have not been investigated by the relevant authorities.

Other cases the Commission claims it can not act upon due to insufficient information include several reports of torture against minors, in the state of Baja California Norte, which were denounced by the *Centro Bi-Nacional de Derechos Humanos*, Bi-National Centre of Human Rights, of Tijuana, (pages 6 and 7 of **Mexico:Torture with impunity**). Referring to these cases, the Commission said it would not act on reports which were not thoroughly documented. However, Victor Clark Alfaro, an anthropologist and director of the Centro Bi-Nacional de Derechos Humanos, is known to have sent a letter to the president of the Commission explaining that the thoroughly documented reports had been presented to the appropriate authorities which had repeatedly failed to act upon the complaints. Amnesty International has copies of several of the testimonies of tortured minors reported by the Centro Bi-Nacional de Derechos Humanos. Several of the testimonies received by AI are very detailed and include a series of photographs of the reported injuries, which are consistent with the torture allegations.

In its report published last September, the Commission said it would not accept complaints of torture unless accompanied by sound proof. Amnesty International is deeply concerned that many apparently legitimate complaints of gross human rights violations, including torture, might be dismissed for what the authorities define as "lack of sufficient evidence". On 15 October 1990 Jorge Carpizo, president of the National Human Rights Commission, publicly criticized the 1986 Federal Law to Prevent and Punish Torture, among other things because "... the victims have to provide the proof of their complaints. This extremely difficult precisely because of how [torture] is practised: in such a way as not to leave any visible signs" ¹.

Furthermore, another factor which complicates the investigation of alleged human rights violations in Mexico is the apparent frequent failure of forensic doctors to document injuries caused by human rights violations. Further, according to reports recently received by AI, doctors are sometimes coerced by law-enforcement agents to produce false forensic reports. Amnesty International considers that the Mexican authorities should fully investigate every complaint of torture or other human rights violation, and that the burden of proof in such cases should not fall on the victims.

¹ "...el torturado debe probar que se le hizo padecer el tormento, extremo muy difícil de cumplir - precisamente por la naturaleza del hecho, pues se practica subrepticamente y con ánimo y posibilidad de no dejar huellas visibles."

Amnesty International is also concerned that several cases of human rights violations about which the National Human Rights Commission has issued recommendations to the relevant authorities, have been considered as "resolved" by the Commission and the relevant authorities, despite evidence indicating otherwise. For example, in the case of the killings of the Quijano Santoyo brothers (pages 34 and 35 of **Mexico: Torture with impunity**) the Commission recommended full investigations into what appeared to be extrajudicial executions, and asked for the suspension, pending trial, of several federal judicial police officials. None of those officials have been thus far suspended, and some in fact have been recently promoted.

b) Report as Response to AI's Publication:

Since its publication the National Human Rights Commission's report has been presented by some Mexican officials, including some members of the Commission, as an official response to AI's publication. Others have denied this, saying that the report was an up-dated document about the Commission's work and not an official response to AI's publication. Although the work of the Commission has been welcomed by Amnesty International on several occasions, Amnesty International has also repeatedly maintained that the Commission - which has no legal powers and is not fully independent - cannot fulfil the responsibility of the Mexican Government to fully investigate all the complaints of human rights violations - regardless of the presentation of complaints to the Commission - and to bring those responsible to justice. Therefore, the report published by the Commission cannot be interpreted as a satisfactory official response from the Mexican Government, as some Mexican officials have suggested.

c) Proposals for New Legislation:

On 16 October 1991 the National Human Rights Commission presented a series of bills to President Carlos Salinas de Gortari. The bills, which will be presented to the Congress by the President, probably this year, include:

- a new law to prevent and sanction torture
- a law to grant Constitutional status to the Commission
- reforms to the federal and to the Federal District's codes of penal proceedings
- reforms to the laws which provide the guidelines for the detention of minors.

The proposed new torture law is similar to the former, except that it establishes higher penalties, and, most importantly, it incorporates the concept of reparation for the victims as a state obligation. This was one of the recommendations included in AI's report. The draft legislation does not curtail the excessive power and responsibilities of the public prosecutor's office in criminal investigations, factors which AI considers undermine the strength and independence of the judiciary. Despite multiple reports of the participation of public prosecutors in the coercion of criminal defendants, the new law still grants important powers to this office.

Amnesty International considers that the second bill, if passed, would represent an important step towards granting independence to the National Human Rights Commission. This was another of the recommendations included in AI's report on Mexico.

Although AI welcomes the new legal projects, it remains concerned that, in the past, similar legal adjustments have not been accompanied by parallel improvements in the human rights situation. Therefore the organization calls for the effective implementation of these and other measures to stop the practice of torture and other human rights violations in Mexico.

d) The Case of Norma Corona Sapién:

On 26 September 1991 Mario Alberto González Treviño, a federal judicial police commander, was arrested and charged with the murder of human rights lawyer Norma Corona Sapién in May 1990 (see pages 1 and 30 of **Mexico: Torture with impunity**). The arrest allegedly followed a lengthy investigation by the National Human Rights Commission and of independent human rights monitors into her killing. Amnesty International welcomes this development, but remains concerned that several other high ranking federal police officials, who reportedly participated in the killing, have still not been brought to justice. Amnesty International is also deeply concerned that despite the recent developments in Norma Corona's case, Isaac Jacobo Chávez Lafarga, arrested in July 1990, and originally accused after being allegedly tortured to confess to her crime, is still imprisoned awaiting trial under charges apparently based on his forced confessions.

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MEXICO

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GOVERNMENT REACTIONS**

November 1991

RECOMMENDED ACTIONS:

Please ensure that all relevant people in the section have received copies for their attention, and that the document is centrally filed for future reference.

1. This EXTERNAL circular should be used in conjunction with the Amnesty International report Mexico: Torture with impunity, (AI Index: AMR 41/04/91) and the circular Mexico: Recent developments relevant to the issue of torture, (AI Index: AMR 41/10/91).

2. Those initiating appeals, and particularly government approaches along the lines suggested in the circulars containing recommended actions - AMR 41/05/91 and AMR 41/07/91, should take care to reflect the new developments described in this update.

3. The information contained here should be given to journalists or others who ask for the government's reaction to or information related to the publication of AI's report Mexico: Torture with impunity.