

PUBLIC

AI Index: AMR 41/035/2005

UA 226/05

Detention without charge/fear of ill-treatment or torture

5 September 2005

MEXICO

Rosario Díaz Méndez (m), Tsotsil indigenous person

Rosario Díaz Méndez was arrested on 23 August in the municipality of Huitiupán, Chiapas State. He is reportedly being held without charge in an unofficial detention facility (*casa de arraigo o de seguridad*) where he is said to have been tortured.

According to his family, Rosario Díaz Méndez was arrested without a warrant by two municipal police officers driving a civilian vehicle. He was taken to the State Prosecutor's Office in the municipality of Huitiupán, where he was held for about 6 hours. He was then taken to an informal detention facility called Quinta Pitiquito, which is a former hotel rented by the State Prosecutor's Office (*Fiscalía General del Estado*) in the state capital, Tuxtla Gutierrez. The Prosecutor had received permission from a local judge to hold him here pending further investigations.

Despite repeated efforts by his family to discover Rosario Díaz Méndez's whereabouts and to establish his legal situation, the authorities refused to reveal where he was being held until 25 August. The State Prosecutor's Office then allowed his son to visit him at Quinta Pitiquito on 26 August. According to his son, Rosario Díaz told him that during his detention he was blindfolded and had his arms and feet tied. He was beaten and had a plastic bag placed over his head in order to induce suffocation. It is not known if he has been granted any independent medical or legal access.

According to his son, Rosario Díaz Méndez was reportedly tortured in order to force him to confess to his part in an alleged kidnapping. He reportedly told his torturers "You are going to have to beat me to death because I don't know anything" (*me van a tener que matar a golpes, porque yo no sé nada*). The family has reportedly filed an injunction in an attempt to free him and a local human rights organization is seeking access to him.

BACKGROUND INFORMATION

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 to the Prosecutor's Office to create a number of unofficial detention facilities 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 pre-charge custody where suspects are under unsupervised detention of their investigators, encouraging ill-treatment and other abuses. Amnesty International has frequently received complaints of torture, ill-treatment and undue pressure on suspects in such custody resulting in evidence that may be use 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 Rosario Díaz Méndez;
- calling for him not to be tortured, ill-treated or coerced while in detention;
- calling for him to be allowed full access to a lawyer of his choice and to be given an independent medical examination;
- calling for him to be charged with a recognizably criminal offence or released;
- if he is to be charged, calling for a due process and for fair trial standards to be upheld;

- urging the authorities to investigate the legality of his detention and the allegations that he has been subject to torture, for the findings to be made public and for those responsible to be brought to justice;
- urging the authorities to end the use of *arraigo* (pre-charge informal detention);

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 Mendiguchía
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 5618/612 9189
Salutation: Dear Governor/Señor Gobernador

Director of Human Rights – Interior Ministry

Dr. Ricardo Sepúlveda
Secretaría de Gobernación
Reforma 99, PISO 21, PH
Colonia Tabacalera
C.P. 06030, México D.F. México
Fax: + 52 55 51 28 02 34 (if someone answers say: "tono de fax, por favor")
Salutation: Dear Sir/Estimado Doctor

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 (if someone answers say: "tono de fax, por favor")

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 17 October 2005.