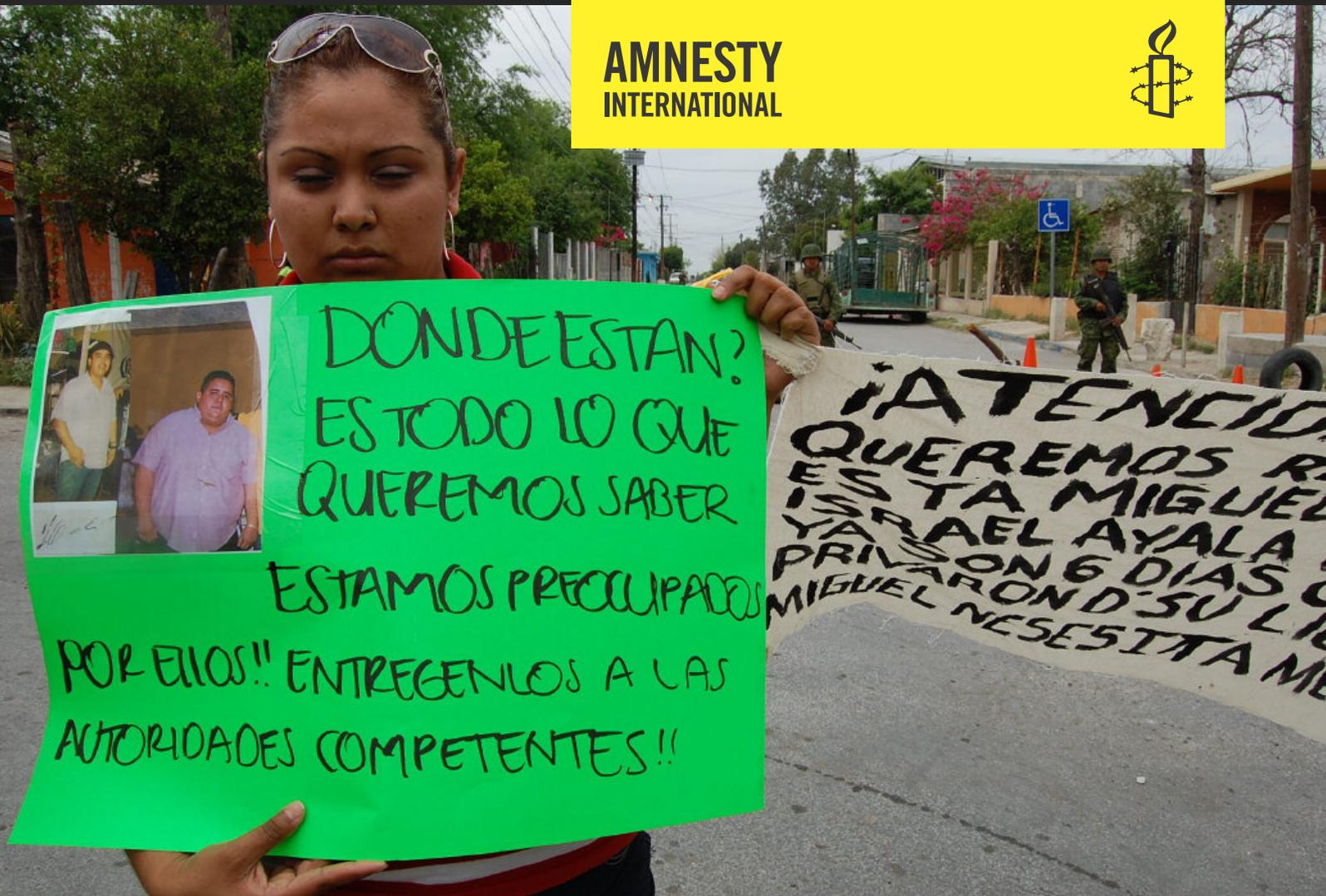


MEXICO

NEW REPORTS OF HUMAN RIGHTS
VIOLATIONS BY THE MILITARY

AMNESTY
INTERNATIONAL



Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories who campaign to end grave abuses of human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion – funded mainly by our membership and public donations.

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Amnesty International Publications

First published in 2009 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Amnesty International Publications 2009

Index: AMR 41/058/2009
Original language: English
Printed by Amnesty International,
International Secretariat, United Kingdom

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Cover photo: The relative of a victim of enforced disappearance and killing, protesting in Nuevo Laredo, Tamaulipas state, in March 2009.

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GLOSSARY

SEDENA – *Secretaría de Defensa Nacional*, Ministry of Defence

PGJM - *Procuraduría General de Justicia Militar*, Military Prosecution Service

PGR - *Procuraduría General de la República*, Federal Attorney General's Office

PGJE - *Procuraduría General de Justicia del Estado*, State Attorney General's Office

CNDH - *Comisión Nacional de Derechos Humanos*, National Human Rights Commission

CEDH – *Comisión Estatal de Derechos Humanos*, State Human Rights Commission

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1. INTRODUCTION

“If you report us, something worse will happen to you, and no one will do anything to us because we’re soldiers”¹

There are increasing reports of serious human rights violations, such as enforced disappearance, unlawful and extrajudicial killings, torture, other ill-treatment and arbitrary detention being committed by members of the Mexican military. The cases documented in this report show that both civilian and military authorities² frequently fail to investigate these reports in a prompt, impartial and effective manner in order to ensure those responsible are brought to justice in accordance with national law and international human rights law.

The military justice system continues to investigate and try military personnel accused of human rights violations. The lack of independence and impartiality in the military justice system denies victims and their relatives access to justice and is a key obstacle to ending impunity for human rights violations.

This report examines five separate cases involving serious human rights violations against a total of 35 individuals committed by members of the Mexican military (further cases reported to Amnesty International over the last 18 months are listed in the Appendix). These violations occurred recently between October 2008 and August 2009, over a period of less than 12 months. Amnesty International believes these five cases illustrate a pattern of serious human rights violations committed by military personnel which has so far been largely ignored by civilian and military authorities. The report also refers to publicly available information on human rights complaints filed against the military which indicate that complaints are increasing.

Over the last three years the National Human Rights Commission (CNDH) completed

¹ Amnesty International Urgent Action: UA 219/09 AMR 41/043/2009, 20 August 2009: “si nos denuncian les va ir peor y a nosotros no nos hacen nada porque somos militares”.

² The President, who leads the Executive, is the commander in chief of the Armed Forces. The Minister of Defence sits on the Executive and National Public Security Council along with, amongst others, the Minister for the Navy, the Federal Attorney General and the Minister for Public Security. The Minister of Defence is responsible for the administration, organization and preparation of the Army and Air Force and presides over the system of military justice, which includes the Military Supreme Court (*Supremo Tribunal Militar*), the Office of the Attorney General of Military Justice (*Procuraduría General de Justicia Militar*) and all other judicial officials who are appointed directly by the President and Secretary of Defence. There are 12 military regions, subdivided into 46 military zones covering Mexico’s territory. The Minister of Defence determines the number of judges and judicial officials in each military zone.

investigations and made more than 45 recommendations³ on cases of human rights violations by members of the military. In Ciudad Juárez, the State Human Rights Commission received 22 complaints of enforced disappearance and extrajudicial execution over the last 18 months (March 2008 to September 2009). Amnesty International believes these figures are conservative and that the real number of cases of torture, enforced disappearance and unlawful killings is much higher.

These new reports of human rights violations by the military documented by Amnesty International occurred in the context of military law enforcement activities to support civilian efforts to combat organized crime and drug cartels.⁴ Violence and murders attributed to organized crime have spiralled in the last two years: nearly 14,000 murders were reported in the media between 2008 and July 2009⁵. In Ciudad Juárez, Chihuahua state, between the beginning of 2008 and September 2009, 3052 killings were attributed to drug cartel violence.⁶ Violence is extreme: it includes the kidnapping as well as the dismembering of bodies and decapitation. In the struggle against powerful and heavily armed drug cartels and organized crime military and other security force personnel⁷ have repeatedly been the target

³ According to Article 6 of the Law on the National Human Rights Commission (Ley de la Comisión Nacional de Derechos Humanos), the CNDH can formulate public non-binding recommendations (“formular recomendaciones públicas no vinculatorias”) directed at authorities found to be responsible for abuses.

⁴ Shortly after taking office in December 2006, President Calderón ordered a large increase in the deployment of military personnel involving up to 50,000 soldiers. No legal extension of military powers has been enacted. In times of peace article 129 of the Mexican Constitution limits military powers to those functions that have specific connection to military discipline. However, in 1996 the National Supreme Court concluded “from the study of articles 16, 29, 89 (VI) and 129 of the Federal Constitution, that [...] it is constitutionally possible, though no suspension of guarantees has been declared, that the Army, Air Force and Navy may act in support of the civil authorities in various public security tasks, but always at the express, well-founded and justified request of the civil authorities, and being subject to the legal order stipulated in the Constitution, in the laws which emanate from it and in the treaties which are in accordance with it. For these reasons it is valid to assert that the armed forces are constitutionally authorized to act, obeying orders from the president of the Republic, when, without reaching the extremes of invasion, grave disturbance of the public peace or any case which puts society in grave danger or conflict, or such situations which give rise to fears that if they are not confronted immediately they will culminate in one or all of those grave phenomena (Unconstitutionality Lawsuit 1/96, Leonel Godoy Rangel et al.- 5-III-96, unanimous with 11 votes. Thesis number XXVII/96, XXVIII/96 and XXIX/96). On this basis, military officials routinely perform policing functions, such as conducting road blocks, stop and searches, property searches, arrest and detention of criminal suspects, including in military bases, with and without, the presence of civilian authorities.

⁵ CNDH, press release, CGCP/087/09, 13 July 2009.

⁶ CEDH, Ciudad Juárez, 1 October 2009.

⁷ There are various layers of police forces in Mexico: municipal police, state police, federal police, judicial state police and judicial federal police. The public security police are the responsibility of the minister or official in charge of public security at federal, state or municipal level. The judicial police (*policía ministerial*) work under the direction of Federal Attorney General's Office (*Procuraduría General*

of attacks by criminal gangs. Between the start of 2007 and July 2009, 73 soldiers were killed.⁸

Amnesty International recognizes the serious challenge to public security facing the Mexican government and its responsibility to protect the population and integrity of state institutions. The organization understands that law enforcement duties in such situations are difficult and dangerous for those charged with improving public security conditions. Nevertheless, crime cannot be fought with crime. Neither should the severity of a crisis become justification for the use of illegal methods or a pretext for turning a blind eye when abuses are committed.

The aim of this report is to highlight a grave pattern of recent human rights violations perpetrated by members of the Mexican military and to call on the civilian and military authorities to take immediate and effective steps to halt and remedy such abuses. This report is not a comprehensive study of past human rights violations by the Mexican military nor the legacy of impunity associated with such violations. National and international human rights organizations have also issued reports in the last year documenting human rights violations committed by the military over recent years and the failure of the military justice system to hold those responsible to account.⁹

Unlawful killings, enforced disappearances, torture and other ill treatment and arbitrary detention are prohibited under international human rights law. Mexico has ratified all international and regional human rights instruments establishing these prohibitions: the International Covenant on Civil and Political Rights (ICCPR), the American Convention on Human Rights (ACHR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Inter-American Convention to Prevent and Punish Torture, the Convention for the Protection of All Persons from Enforced Disappearance, the Inter-American Convention on Forced Disappearance of Persons, the Rome Statute of the International Criminal Court and the Convention on the Non Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.

Many of the cases of serious human rights violations documented in this report were perpetrated following arbitrary detention. In Mexico, article 16 of the Constitution allows legal arrest in three instances: a) with a judicial warrant on the basis of criminal investigation; b) urgent arrests ordered by a prosecutor when there are grounds for believing the suspect accused of a serious crime will flee and a judge is unavailable to issue an arrest warrant; c) a suspect can be detained by anyone in the moment in which he or she is caught committing a crime or immediately after (*en flagrancia*), in such instances the suspect must be presented without delay to the public prosecutor, the detention registered and an investigation opened. In these cases, the suspect can be detained by the public prosecutor

de la República, PGR) or one of the 32 State Attorney Generals' of Offices (*Procuradurías Generales de Justicia de los Estados, PGJEs*) conducting criminal investigations.

⁸ Milenio, 1 julio 2009, "Julio, el mes más violento del sexenio", www.milenio.com/node/241010

⁹ *¿Comandante supremo? La ausencia de control civil sobre las Fuerzas Armadas al inicio del sexenio de Felipe Calderón*, Centro de Derechos Humanos "Miguel Agustín Pro Juárez", enero 2009; *Uniform Impunity*, Human Rights Watch, April 2009.

for no longer than 48 hours before being presented to a judge and charged.

En flagrancia detentions are the most common form of detention carried out by police and military authorities. While suspects and relatives may challenge the legality of detentions, Amnesty International has documented in several reports the failure of police, prosecutors, and judicial officials to consistently ensure detention laws are rigorously and impartially enforced. In this context, some detentions that may not be ruled illegal in Mexico amount to arbitrary detentions under international law.

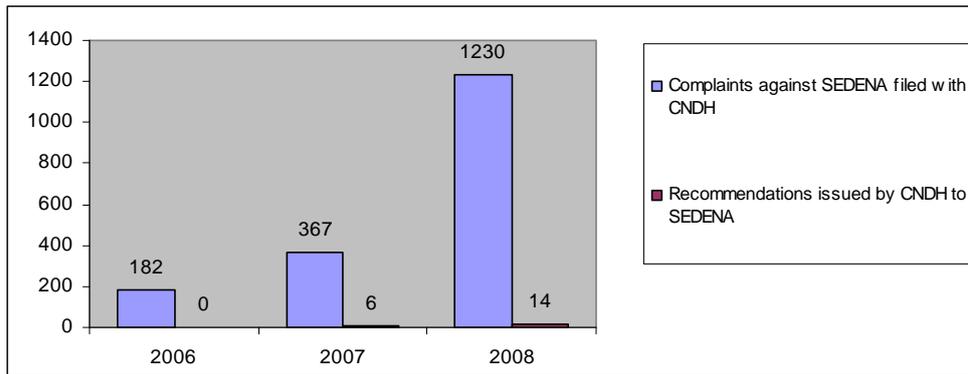
An exception to the aforementioned forms of detention is *arraigo*. According to article 16 of the Constitution on the basis of a prosecutor's request, a judge can order the retention (*arraigo*) of someone without charge, stipulating the time and place, for 40 days (extendible up to 80 days), in order to ensure a successful investigation, to protect persons or legal rights, or when there is a real risk that the suspect will flee justice. *Arraigo* is a form of pre-charge detention in which the suspect is not brought before a judge and is frequently denied access to family or an independent lawyer (of his or her choice). Suspects can be detained at locations which are not always recognizable as official detention centres. International human rights mechanisms such as the UN Working Group on Arbitrary Detentions (E/CN.4/2003/8/Add.3, 17 December 2002, para 45-50) and the Committee on Torture (CAT/C/MEX/CO/4, 6 February 2007) have referred to *arraigo* as a form of arbitrary detention in which detainees are vulnerable to torture. They have called for its elimination.

2. THE SCALE AND SEVERITY OF RECENT MILITARY ABUSES

A comprehensive or detailed analysis of the scale of human rights violations committed by members of the military is not available for two significant reasons. First, deficiencies and unnecessary restrictions in the gathering and publishing of data on human rights related complaints received by both military and civilian authorities against military personnel prevent reasonable scrutiny. And second, intimidation and threats against some victims and their relatives mean that an unknown number of abuses are never officially reported. One local non-governmental human rights organization in Nuevo Laredo informed Amnesty International that it had received 70 complaints of arbitrary detention, torture and other ill-treatment by military personnel between January 2008 and September 2009, but only 21 individuals lodged legal complaints as the rest feared threats against them would be carried out.

Despite the restrictions and deficiencies in official information, the little data available suggests a sharp rise in military abuses over the last two years. According to the National Human Rights Commission (*Comisión Nacional de Derechos Humanos, CNDH*), it received 182 human rights related complaints against the Ministry of Defence (*Secretaría de Defensa Nacional, SEDENA*) in 2006; in 2007, 367 complaints; in 2008, 1,230 complaints, and for six months of 2009, there were 559 complaints. In 2006 the CNDH did not make a single recommendation against the Ministry of Defence in relation to human rights violations. In 2007 it made six recommendations (three cases related to torture and ill-treatment and one to unlawful or extrajudicial killing), in 2008 it made 14 (six relate to torture and ill-treatment and four to unlawful or extrajudicial killings), and by the end of October 2009 a further 25

(15 related to torture and other ill-treatment and one to enforced disappearance).¹⁰



Complaints filed with the CNDH and recommendations, Source, Activity Report (Informe de Actividades), CNDH, 2006, 2007 and 2008; www.cndh.org

Many complaints occurred during military law enforcement activities conducted in the state of Chihuahua, in particular, in Ciudad Juárez. Between March 2008 and September 2009 the Chihuahua State Human Rights Commission (*Comisión Estatal de los Derechos Humanos, CEDH*) and a municipal complaints office in Ciudad Juárez received more than 1300 complaints of military abuses, these included at least 14 allegations of enforced disappearance and eight allegations of extrajudicial killing.¹¹

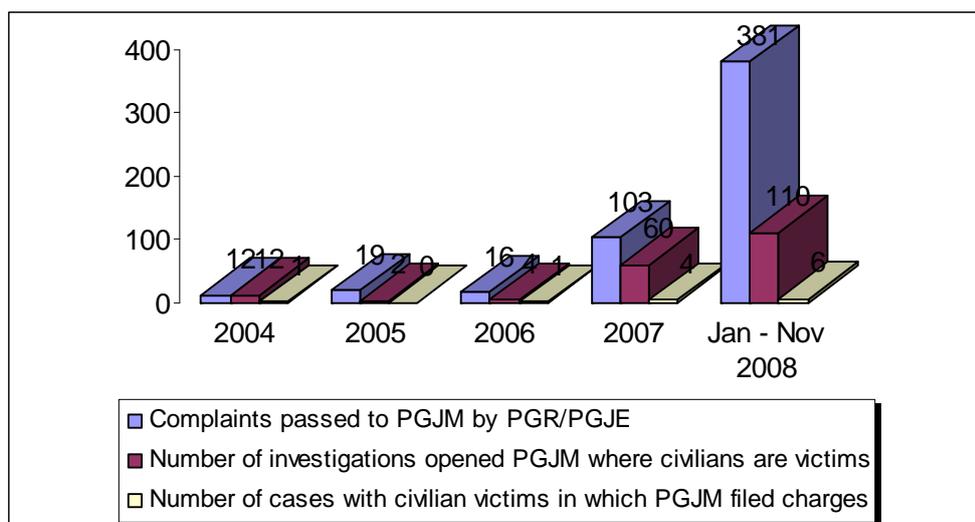
In December 2008, figures published by the Ministry of Defence showed a sharp increase in the number of complaints of unspecified military abuses passed to the military judicial prosecution services (*Procuraduría General de Justicia Militar, PGJM*) by the Federal Attorney General's Office (*Procuraduría General de la República, PGR*) or the 32 State Attorney General's Offices (*Procuradurías Generales de Justicia de los Estados, PGJEs*).¹² Virtually no detailed information is available on military judicial investigations or proceedings regarding these complaints, but it is clear that the number of investigations opened by the military prosecutor into such abuses by the military remained a fraction of the actual number of complaints received (see graph). The little information available regarding military trials and convictions indicates that between January 2000 and November 2008, military courts convicted a total of 32 military officials for crimes committed against civilians. There is no

¹⁰ www.cndh.org.mx, Informe de actividades 2006, 2007 and 2008

¹¹ Interview with the Ciudad Juárez office of the Chihuahua CEDH, October 2009.

¹² According to the Constitution (Art 21 and 73, XXI), the Organic Law of the Federal Judiciary (Art. 50), and the Federal Criminal Code, the PGR is responsible for investigating federal crimes, such as crimes against federal laws and international treaties, organized crime, trans state and border offences, narcotics crimes, firearms offences, as well as crimes committed by and against federal officials and the federal administration. All other crimes, such as murder, rape, kidnapping and offences committed by officials of Mexico's 31 states and the Federal District which are not connected with federal offences are the responsibility of the PGJEs.

further information available regarding the nature of the cases investigated or brought to trial.



Access to information request by Centro Prodh via IFAI/Infomex to SEDENA, [folio 0000700175808, 0000700176108, 0000700176308, 16 December 2008]

In July 2009, the head of the Human Rights Unit of the Ministry of Defence (Dirección General de Derechos Humanos de la SEDENA) told journalists that 53 military officials were under investigation for alleged human rights violations, including torture and murder and 12 others had been sentenced – a total of 65.¹³ However, nine of the sentences referred to cases prior to the present administration. No further information is available.

3. NEW CASES OF MILITARY ABUSES

3.1 THE ENFORCED DISAPPEARANCE AND UNLAWFUL KILLING OF SAÚL BECERRA REYES, CHIHUAHUA STATE

On 21 October 2008, 31 year-old **Saúl Becerra Reyes** and five other men were arrested by soldiers in a car-wash near the home he shared with Brenda Patricia Balderas and their two children in Ciudad Juárez, Chihuahua state. Witnesses watched uniformed soldiers detain the six men and seize three vehicles, one of which belonged to Saúl Becerra. Over the next five days, Brenda Patricia Balderas, went to the PGR, military barracks and municipal police

¹³ Excelsior, 24 June 2009, "Sedena rebate las críticas sobre garantías civiles"

http://www.exonline.com.mx/diario/noticia/primera/pulsonacional/sedena_rebate_las_criticas_sobre_garantias_civiles/671368

stations looking for Saúl Becerra. All the officials denied knowledge of the detentions or the men's whereabouts.

After being tortured and held illegally for five days by the military at the barracks of 20th Motorized Cavalry Regiment, five of the detainees were transferred on 26 October to PGR detention and charged with drug and firearm offences. Saúl Becerra was not transferred. The three vehicles confiscated by the military on 21 October were also handed over to the PGR, including Saúl Becerra's. The military made no reference to Saúl Becerra Reyes, despite the fact that one of the cars belonged to him.

On 27 October Brenda Patricia Balderas visited the detainees and saw that the five showed clear signs of bruising on their bodies. According to one of the detainees, José Hernández (name changed), all six men had been blindfolded and tortured, including repeated beatings and threats, over the five days in the military base. He had spoken to Saúl Becerra, who told him he had been badly beaten. He only realized Saúl Becerra was not with the five men when their blindfolds were removed shortly before being transferred to PGR detention.

On 27 October Brenda Balderas tried to file a complaint for kidnapping and illegal detention against the military with the PGR in Ciudad Juárez, however, PGR officials would not register her complaint (reportedly refusing to provide confirmation of her complaint). Brenda Balderas also filed complaints with the Chihuahua CEDH and the CNDH. At the time of writing and over a year later, the CNDH had not concluded its investigation or informed Brenda Balderas of progress on the case.

On 6 November, Brenda Patricia Balderas filed a habeas corpus petition (*amparo*) with a federal court.¹⁴ On the same day, a federal court official went to PGR premises and the headquarters of 20th Motorized Cavalry Regiment to establish Saúl Becerra's whereabouts, to no avail. The court also ordered the inspection of state and municipal police detention centres. Over the next month, there were similar unsuccessful inspections of PGR and military premises and detention centres.

In December, Brenda Patricia Balderas requested that the federal court obtain testimony from José Hernández to demonstrate that Saúl Becerra had been in the custody of the military. On 2 January 2009 the federal judge finally agreed to Brenda Balderas' request and José Hernández's testimony was attached to the *amparo* case file. A further request for information on the case to the commander of the military in Ciudad Juárez was not successful. The court took no further action to establish Saúl Becerra's whereabouts.

At the beginning of March 2009 Saúl Becerra's body was found on the road between Nuevo Casas Grande and Ciudad Juárez. The one page death certificate issued by local authorities states that he died on 22 October 2008 (one day after his detention) of a cerebral haemorrhage from head trauma (*Hemorragia Cerebral 1 hora (sic) ** Traumatismo Craneo*

¹⁴A habeas corpus (*amparo*) petition with a federal court is regulated in the Constitution (Art. 103-107) and the Amparo Law (Art. 116, 117) to protect constitutional rights including personal liberty in urgent cases. For a court to accept a petition the plaintiff must name the authority responsible for the detention and if possible the location of his or her detention and provide supporting evidence.

Encefalico). No further autopsy was carried out.

When Brenda Balderas informed the federal court that Saúl Becerra was dead, the judge closed the *amparo* proceedings and passed the case to the homicide unit of the Chihuahua PGJE. An investigation was opened but no steps have been taken by the PGJE to determine the involvement of the military in Saúl Becerra's disappearance and death.

3.2 THE ENFORCED DISAPPEARANCE OF THE GUZMÁN BROTHERS, CHIHUAHUA STATE

On 14 November 2008, soldiers of the Mexican Army accompanied by Federal Preventive Police (*Policía Federal Preventiva, PFP*) and a municipal police officer arrived at the house of brothers **Carlos Guzmán Zúñiga** and **José Luis Guzmán Zúñiga**, in Colonia Independencia II, Ciudad Juárez, Chihuahua state. According to witnesses, federal police surrounded the house as soldiers entered the building. Shortly after neighbours saw the soldiers take Carlos and José Luis Guzmán handcuffed from the house. They forced them into military vehicles and drove off. The two men have never been seen again.

On the same day, their father, Javier Antonio Guzmán Márquez, went to the military base of the 20th Motorized Cavalry Regiment in Ciudad Juárez to try to establish their whereabouts, but he was refused access or information. He also went to the PGR offices as well as federal and state police detention facilities. Both civilian and military officials denied knowledge of the detention and whereabouts of Carlos and José Luis Guzmán.

On 19 November, Javier Antonio Guzmán Márquez and his wife Gloria Zúñiga, filed a complaint with the CNDH. They also filed a habeas corpus with a federal court, but again police and military officials claimed they had no knowledge of the brothers' whereabouts.

On 20 November, their father tried to file a complaint at the Chihuahua PGJE. However, prosecutors there refused to register the complaint or open an investigation¹⁵ on the basis of the military involvement. Although the PGR eventually opened a complaint (AP/PGR/CHIH/JUA-V/1668/2008), it was immediately transferred to the military prosecutor and henceforth the PGR refused to respond on the case.

On 16 January 2009, in the face of official inaction, the parents filed the case once again with the Chihuahua PGJE in the Missing Person's Unit (*Unidad Especial de Investigación de personas ausentes o extraviadas*). The unit assisted the family in circulating photographs of the two brothers in Ciudad Juárez. In effect, in order for the family to receive official attention and support to search for their sons, they were required to ignore the fact that the men had last been seen in the custody of the army.

In July 2009, a CNDH investigation concluded there was evidence of responsibility of members of the 20th Motorized Cavalry Regiment in the brothers' illegal detention and

¹⁵ "integrar la querrela"

enforced disappearance. As well as a federal police confirmation of military leadership of the operation that day, the CNDH obtained statements from five separate witnesses confirming soldiers detained the two brothers. However, the CNDH failed to investigate the lack of action by the PGR, which claimed to have no record of the case.

The CNDH recommendation on the case calls for disclosure of information on the whereabouts of the two men and an investigation by the military justice system into their illegal detention. The CNDH also recommends an investigation into the failure of the military authorities to provide it with accurate information relating to the brother's detention. Additionally, the CNDH recommends training of military officials and reparations for the family. At the time of writing, SEDENA had still not indicated whether it would accept the CNDH recommendations. Relatives have repeatedly requested further information from the CNDH on developments but have not received any and are no closer to knowing the fate of the two men.

3.3 THE ENFORCED DISAPPEARANCE AND UNLAWFUL KILLING OF THREE MEN, TAMAULIPAS STATE

On 17 March 2009, three men in their 20s, **Miguel Alejandro Gama Habif**, **Israel Ayala Martínez** and **Aarón Rojas de la Fuente** were detained by members of the Mexican Army in Nuevo Laredo, Tamaulipas state.¹⁶ The three men were driving through the city at 10 pm after dining at the house of Miguel Alejandro Gama Habif when they were stopped by the military. According to Dulce María López Duarte, the wife of Miguel Alejandro Gama, he managed to phone her from his mobile to say that their car had just been stopped by the military, before the connection was cut.

That same night more than 50 soldiers arrived at the house of Dulce María López Duarte. With no explanation or search warrant for entering the house, soldiers searched her home removing personal articles, including credit cards and computers.

The following days, Dulce María López Duarte and other relatives sought information on the whereabouts of the three men from the military authorities, the PGR, as well as state and municipal police. She also filed a habeas corpus (*amparo*) with a federal court, resulting in a court request for the PGR and military to present the three men. However, both civilian and military authorities continued to deny knowledge of the detentions.

A few days after the men's illegal detention and disappearance, relatives filed complaints with the PGR, the Tamaulipas PGJE and the CNDH. The families also protested in the streets outside a building believed to be a secret military detention facility. On 19 March, a journalist gave relatives copies of photos and video footage taken of members of the military driving in Miguel Alejandro Gama Habif's car after their disappearance. An eye-witness also

¹⁶ UA 88/09, AMR41/026/2009 and follow up AMR41/018/2009.

provided testimony that the men had been detained by members of the army. The evidence was presented to the PGR.

Although the military commander for the region publicly denied any connection with this case, overwhelming evidence of military involvement eventually forced the PGJM to open an investigation. On 29 April, three burnt bodies were located in the municipality of Vallecillo, Nuevo León state. On 5 May the bodies were identified as the missing men -- though the relatives were never allowed to see the bodies or the official autopsy report. On 8 May the Ministry of Defence announced that 12 military personnel had been detained and charged in relation to the men's disappearance and death.

No information is available regarding the trial of the 12 military officials in the military justice system or the failure of military officials to respond promptly and effectively to the reports that the men had been illegally detained and disappeared. Dulce María López Duarte and Carmen Ayala (sister of Israel Ayala Martínez) continue to campaign for justice and reparation. In September 2009 an official with the Human Rights Unit of the Ministry of Defence could provide them with no further information on the case, except to say that "those who should be detained are detained" (*los que tienen que estar detenidos están detenidos*). He agreed to provide access to the case file in the military base on condition they went unaccompanied by legal advisers or human rights defenders. The CNDH has not made a recommendation on the case.

3.4 TORTURE OF MUNICIPAL POLICE OFFICERS, BAJA CALIFORNIA STATE

Between 21 and 27 March 2009, 24 male and one female officer¹⁷ of the municipal police of Tijuana, Baja California were arrested in separate incidents and detained at the military base of the 28th Infantry Battalion of the 2nd Military Zone in Tijuana, known as Aguaje de la Tuna. For the first three days of each officer's detention, their families had no information regarding their whereabouts. Then a federal judge issued pre-charge detention orders (*arraigo*¹⁸) authorizing their continued detention at the military base. During 41 days of arraigo detention in the military base, they were not brought before a judge and were denied access to independent lawyers of their choice. On 7 May, the military transferred them to a federal prison in Tepic, Nayarit state, where they were charged with participating in organized crime and detained on remand.

¹⁷ Artemio Duarte Martínez, Blanca Berenice Huízar Munguía, Carlos Cervantes Álvarez, Gerardo Garduño Escobar, Jaime Berumen Borrillo, Jaime Alberto Ávila Flores, Jorge Sánchez Reyes, Jorge Ernesto Pérez Avendaño, José Alberto Castillo Ortiz, José Alfredo Cuevas Higuera, José Carlos Ávalos Luis, Luis Alberto Toledo Coello, Manuel Guerrero Flores, Manuel Abelmo Olivas Coss, Miguel Ángel Mecinas López, Maximino García Luna, Omar Medina Ricardo, Raúl Delgado Rivera, René Huante Mondragón, Roberto Zaragoza Martínez, Rodolfo Ismael Nava, Rolando Saldaña Chacón, Salvador Bolaños Sánchez, Samuel Alonso Ureña Varo, Víctor Manuel González Méndez.

¹⁸ See page 8 for an explanation of *arraigo*.

According to all 25 police officers, during their initial detention at the military base they were subject to continuous torture and other ill-treatment by military officials trying to obtain false confessions and information implicating other police officers in criminal offences, or signatures for unseen statements. According to the testimony of the detained police officers, they were bound with tape round their head, hands, knees and feet for days, denied food for three days, beaten repeatedly, asphyxiated with plastic bags over their heads and given electric shocks to their feet and genitalia. A military doctor was present to resuscitate those who collapsed or lost consciousness.

“They taped up my eyes and hands; the tape cut the skin of my hands, I couldn’t feel my fingers, then they rolled me in a blanket and began to beat me all over my body, between six men they beat me for an hour, I lost all sense of time; on six occasions I lost consciousness, as I wouldn’t sign what they wanted they kept on hitting me, I don’t know for how long (...) they took off my boots and put my feet in a container of water, then they put in electric cables and that went on for hours (...) they put electric cables on my testicles (...) I felt like they were going to kill me (...) I couldn’t take any more, I signed with my eyes taped up. Today I still can’t feel the fingers in my right hand.”¹⁹

On 24 April relatives of the police officers filed a complaint with the CNDH, however, it was not until 18 May that CNDH officials from Mexico City visited the men in federal prison in Tepic to gather evidence of torture. The CNDH investigation continues.

A habeas corpus petition in Tijuana resulted in a federal court obtaining medical records from a private hospital demonstrating that one of the detainees had received emergency medical treatment on injuries sustained while in military custody, including broken ribs.

On 1 June relatives of the victims filed a criminal complaint with the Baja California PGJE for torture and illegal detention. No information is available on progress in the state investigation, nor does there appear to have been a full and independent medical examination of the detainees.

3.5 FOUR CRIMINAL SUSPECTS TORTURED AND ILL-TREATED, BAJA CALIFORNIA STATE

On 16 June 2009, **Ramiro Ramírez Martínez, Rodrigo Ramírez Martínez, Ramiro López Vázquez and Orlando Santaolaya** were arrested on suspicion of kidnapping by members of the Mexican military in Playas de Rosarito, Baja California. They were taken into detention at the

¹⁹ *Me entaiparon los ojos y las manos; el tape me cortaba la piel de las manos, mis dedos no los sentía, luego me envolvieron en una cobija todo completo y me empezaron a golpear en todo el cuerpo, me golpearon entre seis hombres por horas, perdía la noción del tiempo; en seis ocasiones me desmayé, como no firmaba lo que ellos querían me siguieron golpeando, no sé por cuánto tiempo (...) me quitaron las botas y mis pies los metieron a una vasija con agua, luego pusieron cables de electricidad y eso siguió por horas (...) me pusieron cables con electricidad en mis testículos (...) yo sentía que me iban a matar(...) ya no podía más, firmé con los ojos enteipados. Hoy no siento los dedos de mi mano derecha.”*

military base of the 28th Battalion of the Second Military Zone in Tijuana where local journalists filmed them in front of an arms cache.

In their official report to the federal prosecutor, military officials alleged they had received an anonymous tip-off at the military base and had apprehended the four suspects *en flagrante* at the crime scene in possession of arms and a kidnap victim. On the federal prosecutor's request, a federal judge authorized the four be held in pre-charge detention (*arraigo*) at the military base. The four spent 41 days in military custody before being transferred to a federal prison and formally charged with kidnapping, illegal arms possession and organized crime.

While in military custody the four men made confessions to federal prosecutors present at the military base which they subsequently retracted in court. The men stated in court that they had not been detained at the crime scene and they had been tortured to extract false confessions.

The men were detained incommunicado in the military base for two weeks before lawyers or family members were allowed access. They informed relatives they had suffered beatings, suffocation with plastic bags, mock execution, and sleep deprivation. According to the men, the only medical personnel available were military doctors monitoring the torture and resuscitating suspects when they lost consciousness.

On 17 July, relatives filed a complaint with the CNDH in Tijuana. According to relatives, the CNDH official investigating the complaint had to rely on the report of the military doctor at the military base. Shortly after the CNDH visit the men were transferred to a federal prison in Tepic, Nayarit state where they were formally charged. Amnesty International is not aware of any criminal investigation by either civilian or military authorities into the allegations of torture.

4. THE RIGHT TO EFFECTIVE REMEDY²⁰

4.1 HANDLING COMPLAINTS

Efforts by relatives or civil society to highlight allegations of human rights violations committed by the military are often not taken seriously and sometimes rebuffed as attempts to undermine the prestige of the armed forces.

In September 2009, Gustavo de la Rosa Hickerson, head of the Ciudad Juárez office of the Chihuahua CEDH was threatened in relation to his outspoken criticisms of abuses committed by the military.²¹ Otilia Eugenia Manuel, a human rights defender in Guerrero state who has campaigned for justice in the case of two indigenous women raped by military personnel in Guerrero in 2002 has been repeatedly threatened and harassed.²² A relative of one of the victims included in this report received threatening phone calls warning her to stop pursuing the case. On 2 May 2007, residents of the municipality of Carácuaro, Michoacán state, were reportedly beaten and threatened by members of the military for trying to file complaints with the local CEDH relating to military abuses.²³ On 14 August 2009, Silverio Iván Jaimes Filio and Jorge Raúl Jaimes Jiménez were detained by members of the military in Cuernavaca, Morelos state (see appendix). According to the two men after being tortured, soldiers told them: “if you report us, something worse will happen to you, and no one will do anything to us because we’re soldiers”.²⁴

The Mexican Constitution (article 20, C, I-VII) affords relatives of victims of crime the right to access their case file as well as the right to act as auxiliaries to the public prosecutor

²⁰ The right to effective remedy for grave human rights abuses under international law is established in article 8 of the Universal Declaration of Human Rights, article 2 of the International Covenant on Civil and Political Rights, article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 8 of International Convention for the Protection of All Persons from Enforced Disappearance; article 25 of the American Convention on Human Rights. Article 11 of the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law stipulates: “Remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim’s right to the following as provided for under international law: (a) Equal and effective access to justice; (b) Adequate, effective and prompt reparation for harm suffered; (c) Access to relevant information concerning violations and reparation mechanisms.

²¹ UA 265/09 Index: AMR 41/052/2009, 5 October 2009.

²² Promoting Indigenous Rights in Mexico, Me’phaa Indigenous People’s Organization, October 2008, Index: AMR 41/040/2008.

²³ “Denuncia alcalde de Nocupétaro abusos de las fuerzas armadas durante operativos”, La Jornada, 5 de mayo 2007.

²⁴ Amnesty International Urgent Action: UA 219/09 AMR 41/043/2009, 20 August 2009, “*si nos denuncian les va ir peor y a nosotros no nos hacen nada porque somos militares*”.

(*coadyuvancia*), and if necessary, challenge the actions of the prosecutor. However, in cases of human rights violations committed by members of the military which are handled by the military justice system this right is effectively denied and relatives have little, if any, involvement or access to information on their case. The failure of the military justice system to provide victims or relatives with timely information on the investigation, prosecution or trial proceedings regarding their case, for example on forthcoming hearings or legal decisions, as well as severely restricted access to court papers, means that decisions or rulings by military prosecutors or judges cannot be questioned or challenged in accordance with international standards for fair trial.

The PGR is responsible for investigating and prosecuting criminal offences committed in the federal jurisdiction, which include allegations of serious human rights violations committed by federal officials. As the cases in this report indicate, when military officials are implicated in human rights violations the PGR routinely transfers the cases to the military prosecutor. Amnesty International believes there is no constitutional reason preventing the PGR from conducting independent investigations into reports of human rights violations by members of the military. The current policy of ignoring or transferring these cases to the military prosecutor, aside from being contrary to international standards on the lack of independence of military judicial systems and the need to guarantee impartiality of investigations into human rights violations, results in significant delays in attention to the case, and can even become an obstruction in helping to establish the person's whereabouts and preventing torture and other ill-treatment.

In desperation, relatives and victims of abuses by the military often turn to the state PGJEs. In most instances state PGJEs refuse to act on the case and refer it back to PGR. In two cases in this report, the refusal of the PGR to investigate led to cases of enforced disappearance and an unlawful killing being investigated by departments of the PGJE as cases of missing persons or common murder, blind to the evidence implicating members of the military in the crime.

The CNDH is mandated to receive complaints of military abuses, obtain information from the relevant civilian and military authorities and conduct non-judicial investigations. This may result in the CNDH concluding that a complaint is without foundation, or, an agreement between the parties to remedy the abuse committed, or a public non-binding recommendation to the civilian or military authorities, or both, to take action to remedy and not repeat the abuse.²⁵ CNDH monitoring is limited to the investigation of abuses of authority. It does not scrutinize civilian or military court proceedings or trials, or criticize civilian or military judicial decisions.

The lack of information and transparency regarding the military justice system means that CNDH recommendations are the only publicly available record on investigations into military abuses and as such constitute a vital means of highlighting patterns of human rights violations. They are also the only legal instrument that the military authorities appear to recognize as the basis for opening an investigation and therefore one of the few, albeit slow and limited, mechanisms for relatives and victims to seek justice and redress.

²⁵ Ley de la Comisión Nacional de Derechos Humanos, Art 43-49.

In the case of military jurisdiction, the CNDH has not adopted or attempted to promote international human rights recommendations which call for alleged human rights abuses by military personnel to be investigated and tried by the civilian judicial authorities.

4.2 THE MILITARY JUSTICE SYSTEM

International human rights law and standards require reports of human rights violations to be promptly, thoroughly, independently and impartially investigated by a competent authority and, whenever there is sufficient admissible evidence, prosecute persons suspected of being responsible for such crimes.²⁶

Article 13 of the Mexican Constitution expressly excludes the application of military jurisdiction in cases where ordinary persons are involved.²⁷ However, Article 57 of the Code of Military Justice defines ordinary crimes as offences against military discipline and subject to military jurisdiction when committed by military personnel “on active service or for reasons of active service”. This secondary law and its subsequent interpretation by the federal courts has meant that allegations of human rights violations committed by military personnel are almost always subject to military jurisdiction.

Nevertheless, there is growing debate in Mexico about the legitimacy and effectiveness of the wide jurisdiction granted to the military justice system to investigate and try cases of human rights violations committed by soldiers against civilians. Amnesty International’s reports have repeatedly demonstrated how the system of military justice has failed to impartially investigate human rights violations and hold to account those responsible, creating a climate

²⁶ The obligation to carry out independent and impartial investigations into allegations of grave human rights violations is established in a number of instruments to which Mexico is a party state, 1) the Convention for the Protection of All Persons from Enforced Disappearance, Art.12 ; 2). The Convention against Torture and Other cruel, Inhuman or Degrading Treatment or Punishment (CAT) Art.12,13, and 14; 3) the International Covenant on Civil and Political Rights (ICCPR) Art. 2 and 7; 4) the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, art. 3 includes “The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law, includes, inter alia, the duty to: [...] (b) **Investigate violations effectively, promptly, thoroughly and impartially** and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law.”

²⁷ “Military tribunals shall in no case extend jurisdiction over persons who do not belong to the army. Whenever a civilian is involved in a military crime or violation, the respective civil authority shall deal with the case”. [*Los tribunales militares, en ningún caso y por ningún motivo, podrán extender su jurisdicción sobre personas que no pertenezcan al Ejército. Cuando en un delito o falta del orden militar estuviere complicado un paisano, conocerá del caso la autoridad civil que corresponda*].

of impunity in which serious human rights abuses are unpunished.²⁸ The shortcomings and ineffectiveness of the military justice system in investigating reports of human rights violations by members of the military have also been criticized by the Inter American Commission of Human Rights, the UN Special Rapporteurs on Torture, on Independence of Judges and Lawyers, on Extrajudicial Executions, and on Violence against Women, as well as the Office of the High Commissioner for Human Rights, the Committee on Torture and the Human Rights Committee.²⁹

National armies the world over operate their own legal systems to deal with cases of military misdemeanors committed by members of the armed forces. However, military courts lack the independence and impartiality to be able to try cases of human rights violations implicating members of the armed forces in line with international law.

The Inter-American Court on Human Rights has delivered several judgments concluding that military trials of military personnel implicated in human rights violations do not comply with obligations under the American Convention on Human Rights: “The military criminal courts should have a restrictive and exceptional scope, bearing in mind that they should only judge members of the armed forces when they commit crimes or misdemeanours that, owing to their nature, affect rights and duties inherent to the military system... the military criminal jurisdiction is not the competent jurisdiction to investigate and, if applicable, prosecute and punish the perpetrators of human rights violations.”³⁰

The UN thematic mechanisms and the Inter American human rights system are unanimous in

²⁸ *Amicus Curiae* Brief on the Radilla Pacheco Case, AI Index: AMR 41/036/2009; Mexico: Laws without justice: Human rights violations and impunity in the public security and criminal justice system (AMR 41/002/2007), Mexico: Indigenous women and military injustice (AMR 41/033/2004), Unfair trials: unsafe convictions (AI index: AMR 41/007/2003); “Disappearances”: an ongoing crime (AMR 41/020/2002); Torture cases - calling out for justice (AI index: AMR 41/008/2001); Justice Betrayed – Torture in the judicial system (AMR41/021/2001); “Disappearances”: a black hole in the protection of human rights (AMR 41/005/1998); Silencing dissent: The imprisonment of Brigadier General Francisco Gallardo Rodríguez (AMR 41/031/1997); Members of the Mexican Army rape three Tzeltal women (AMR 41/012/1994).

²⁹ Report by the Special Rapporteur on Torture, E/CN.4/1998/38/Add.2, 14 January 1998, para. 88(j); Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms. Asma Jahangir, submitted pursuant to Commission on Human Rights resolution 1999/35, E/CN.4/2000/3/Add.3, 25 November 1999, para.107(e) and (f); Conclusions of the Report of the Special Rapporteur on the independence of judges and lawyers, Dato Param Cumaraswamy, E/CN.4/2002/72/Add.1, paras. 78 and 192(d), 24 January 2002; Report of the Special Rapporteur on violence against women, E/CN.4/2006/61/Add.4, 13 January 2006, para.69(a)(vi); Report on Mexico produced by the Committee under article 20 of the Convention, and reply from the Government of Mexico, CAT/C/75, May 25 2003, para.220(g); Conclusions and recommendations of the Committee against Torture, Mexico, U.N. Doc. CAT/C/MEX/CO/4 (2007), Para 14; Human Rights Committee, CCPR/C/79/Add.109, 27 July 1999.

³⁰ Inter-American Court on Human Rights, Case of the Rochela Massacre vs. Colombia. Merits, Reparations and Costs. Judgment of May 11, 2007. Series C No. 163.

their view that allegations of human rights violations committed by military personnel should be handled by civilian judicial systems. Regionally, Argentina recently took steps to severely restrict military jurisdiction to modernize the relationship between the Armed Forces and the civilian authorities.

In August 2009, Mexico's National Supreme Court of Justice considered a case in which relatives and a human rights organization filed an injunction against the application of military jurisdiction in the case of four men unlawfully killed by soldiers in March 2008 in Santiago de Caballeros, Sonora state. The majority of the court justices decided the victim did not have the legal right to contest the jurisdiction dealing with the case, and avoided consideration of the legality of military jurisdiction in cases of human rights violations. As a result, the practice of attracting all cases implicating military officials in human rights violations to the military justice system remains unaltered.³¹

In recent years there have been discussions in Congress regarding the modernization of the military penal code to bring it into line with other criminal justice reforms. However, this has not resulted in a concrete proposal or commitments to reform Article 57 of the Code of Military Justice and restrict the scope of military jurisdiction over crimes committed by military personnel against civilians in line with international human rights standards and recommendations.

5. CONCLUSIONS

Amnesty International believes that the new cases in this report are illustrative of a pattern of serious human rights violations committed by members of the armed forces carrying out law enforcement activities for the civilian authorities. These abuses include enforced disappearance, unlawful or extrajudicial killings, torture and other ill treatment and arbitrary detention. Information made public by the Ministry of Defence, the CNDH and some CEDHs indicates that this trend has increased significantly in the last two years.

On the basis of a Supreme Court interpretation of the Constitution, the military has legal authority to perform public security functions in an auxiliary capacity. The exercise of these functions without effective civilian oversight has frequently led to serious human rights violations. The failure of the civilian authorities to effectively oversee military law enforcement operations to ensure respect for human rights is a grave omission.

Human rights violations by the members of the military are not rare, they are frequent and in some areas routine. The case studies examined in this report provide a glimpse of reality. Press reports and human rights organizations indicate that military abuses are considerably higher than official figures suggest, but fear of reprisals and difficulty in bringing a complaint means these cases are under reported.

³¹ <http://www.scjn.gob.mx/MediosPub/Noticias/2009/Paginas/10-Agosto-2009.aspx>

The cases in this report also show that when such abuses are committed by members of the military the response of the state at all levels, is ineffective. The failure of both civilian and military authorities to take timely effective action to prevent and punish these grave human rights violations is tantamount to complicity. In some instances, the lack of cooperation by some military and civilian authorities with relatives or other relevant authorities, such as court officials or members of the CNDH, trying to establish truth and justice may even amount to concealment.

Steps taken within the military justice system to investigate these abuses and hold those responsible to account do not constitute a real intent to bring the perpetrators to justice. The lack of independence and transparency of the military justice system ensures victims and relatives are frequently denied access to justice. Consequently, Mexico appears to be unwilling or unable genuinely to carry out investigations and prosecutions against its military.

The military judicial system appears to only open and conduct an investigation into reports of human rights violations when recommended by the CNDH. Instead of performing a supplementary non-judicial oversight function, the CNDH has assumed a role at the centre of the judicial process determining the basic merits of cases. However, the CNDH does not have the legal authority or competencies to conduct criminal investigations and its enquiries are extremely limited and slow, taking many months to reach a conclusion. Even when the CNDH makes a recommendation, there is no guarantee that this will result in an effective, prompt and impartial criminal enquiry by either civilian or military authorities.

The failure of the government, the legislature, the judiciary, the PGR or the CNDH to restrict or challenge the excessively wide scope of military jurisdiction does not strengthen the military role in performing auxiliary law enforcement activities, but creates a climate where abuses flourish and impunity is unchecked. These are not measures that help resolve the crisis in public security, rather they contribute to it.

It is vital that government and military authorities acknowledge the scale and severity of the human rights violations committed by military personnel while carrying out law enforcement operations in recent years and act quickly to reverse this trend. If the military is to protect its credibility it must accept that human rights violations can never be considered as acts of service subject to procedures of military discipline.

Training of military personnel alone is insufficient to prevent and end abuses – transparency and accountability are also essential. These elements can only be ensured through independent and impartial investigations conducted by the civilian justice system and in accordance with international human rights standards for fair trials.

6. RECOMMENDATIONS

Amnesty International calls on the Mexican government to:

Ensure that members of the military assisting law enforcement operations as well as civilian security force personnel, prosecutors and the judiciary strictly comply with international human rights law which prohibits, under any circumstances, enforced disappearances, unlawful and extrajudicial killings, torture and arbitrary detention.

Ensure that civilian authorities conduct immediate, effective and impartial investigations into all allegations, regardless of whether the accused is civilian or military, of serious human rights violations, such as enforced disappearance, unlawful or extrajudicial killings, torture and other ill treatment in order that those responsible are brought to justice and victims receive reparations.

Review any existing rules and regulations for military deployment in law enforcement operations to ensure full respect for international human rights standards, a clear chain of command establishing civilian oversight at all times and full accountability and transparency for the conduct of law enforcement operations, including clear reporting procedures.

Guarantee civilian oversight to ensure that arrests conducted by the military authorities are in accordance with law and ensure criminal suspects detained by the military are immediately placed at the disposal of the public prosecutor and are never subject to arbitrary detention. Prohibit the transfer or detention of suspects in military bases or other facilities run by the military or other unofficial and non recognized places of detention.

Eliminate the use of *arraigo* detention orders in law and in practice, and in particular ensure that the military authorities are not permitted to detain suspects on court orders of *arraigo* detention.

Enforce national legislation prohibiting unlawful detention and ensure that all detentions are correctly registered; including locations and periods of time, and that relatives and independent lawyers have access to the detainees. Violations of these regulations should immediately be investigated and punished.

Order the PGR and the PJGEs to publish the location of all recognized detention centres, including those used for *arraigo* detention, and to keep this information public and frequently updated.

Ensure military commanders, senior police officials and prosecutors cooperate and assist, and require those under their responsibility to cooperate fully with steps to establish the whereabouts of missing persons or those disappeared, in particular with court petitions of habeas corpus, bringing criminal sanctions against those who fail to meet this requirement.

Take measures to restrict the scope of military jurisdiction in order that allegations of human rights violations committed by military personnel are investigated and tried by

the civilian judicial authorities irrespective of whether the official is on active service. Reform Article 57 of the Code of Military Justice in this respect.

Ensure the National Human Rights Commission carries out prompt and thorough investigations of all allegations of human rights abuses committed by the military in line with international human rights law and standards, and provide regular updates to relatives. The CNDH should not seek conciliation agreements in cases of serious human rights violations. The CNDH should vigorously promote, follow up on and monitor the effective implementation of its recommendations.

Ensure independent medical examinations are carried out promptly of all suspects who make allegations of torture and other ill-treatment during detention as well as full independent autopsies on victims of suspected unlawful killings by members of the security forces, including the armed forces.

Ensure victims and relatives of human rights violations involving members of the armed forces have the right to access case information and participate fully as assistants to the prosecution (*coadyuvantes*) with legal assistance of their choice whether their case is before the civilian or military judicial system, or both.

Ensure victims, their relatives and human rights defenders campaigning for justice in cases of grave human rights violations by members of the military receive effective protection against threats and attacks so that they can continue their legitimate efforts to secure truth and justice without fear of reprisal.

Ensure an effective witness protection program and punish the intimidation or interference with witnesses via federal penal code.

Ensure that SEDENA and the CNDH regularly publish reliable, consistent and detailed information on complaints of human rights violations against military personnel, and on prosecutions and sentences in both the military and the civilian judicial systems.

Withdraw the reservation made upon ratification to article 9 of the Inter American Convention on Forced Disappearance of Persons which expressly excludes jurisdiction of military courts in cases of enforced disappearance.

Withdraw the reservation made upon ratification of the Convention on the Non Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, regarding crimes dealt with in the Convention which are committed after the entry into effect of the Convention with respect to Mexico.

Recognize the competence of the UN Committee on the Convention on the Protection of all Persons from Enforced Disappearance to receive individual complaints.

APPENDIX

Other military abuse cases documented in the last 18 months:

20 August 2009, Cuernavaca, Morelos state: Silverio Iván Jaimes and Raul Jaimes Jimenez were illegally detained and tortured in what they believed to be a military base by members of the army then released without charge. Torture included being blindfolded and beaten, knees forced into spine, threatened with death, electric shocks and rape (UA 219/09, AMR 41/043/2009). In response to a request for investigation by National Network of Human Right Organizations (*Red Todos Los Derechos para Tod@s*), on 15 September the Ministry of Defence replied that the CNDH had opened an investigation and the CNDH had sole legal responsibility for resolving the issue. No further information has been provided to the victims.

28 July 2009, Jiutepec municipality, Morelos state: Soldiers carried out a house raid without warrant on the Zamora Gómez family. José Natividad Zamora Gómez, Andrés Zamora Gómez and Jorge Hernández Jardón were allegedly tortured while being interrogated for information on drugs and arms. Torture included beatings, suffocation with a wet pillow case wrapped round the head and threats (UA 202/09, AMR 41/040/2009). There is no further information available on investigations by the military prosecutor.

9 June 2009, Coyuca de Catalán municipality, Guerrero State: a 500 strong military unit occupied rural hamlets for four days in an apparent search for members of an armed opposition group, the Ejército Popular Revolucionario, EPR. According to a group of non-governmental human rights organizations who visited the area immediately after, soldiers had threatened and intimidated children and women in the communities after the men had fled. At least two people were tortured in the communities, including a 14 year old boy, Omar García, who was given electric shocks, blindfolded, asphyxiated and threatened with castration (UA 161/09, 41/031/2009). No further information is available on investigations by the military prosecutor.

20 June 2009, Huamuxtitlan municipality, Guerrero state: Members of the 93rd Infantry Battalion stopped a passenger bus at a road block and arrested a Mixtec Indigenous man, Fausto Saavedra Valera, apparently for wearing military style boots. The bus was authorized to continue, but as it pulled away, soldiers opened fire on the vehicle killing Na Savi Indigenous passenger, Bonfilio Rubio Villegas. On 29 June 2009 a judge ordered the release of Fausto Saavedra Valera on the basis that there was no evidence against him. No further information is available on investigations by the military prosecutor into the shooting.

26 March 2008, military personnel opened fire on a vehicle in Santiago de los Caballeros, Badiraguato municipality, Sinaloa State, killing four men and wounding two other occupants. There was no evidence that the victims were armed or posed a threat. A relative of the victims filed an unsuccessful petition with Mexico's Supreme Court for an injunction to prevent the military claiming jurisdiction in the case. In 2009 the military prosecutor informed relatives that five soldiers were in military custody and awaiting trial for the killings. No further information was provided.



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MEXICO

NEW REPORTS OF HUMAN RIGHTS VIOLATIONS BY THE MILITARY

Amnesty International is receiving increasing allegations of serious human rights violations, such as enforced disappearance, extrajudicial executions and other unlawful killings, torture and other ill-treatment, and arbitrary detention, being committed by members of the Mexican military. The cases documented in this report show that both civilian and military authorities frequently fail to investigate these reports in a prompt, impartial and effective manner.

The military justice system continues to investigate and try military personnel accused of human rights violations. The lack of independence and impartiality in the military justice system denies victims and their relatives access to justice and is a key obstacle to ending impunity for human rights violations.

This report examines five separate cases, in which a total of 35 people reported that members of the Mexican military had committed serious human rights violations between October 2008 and August 2009. The report also refers to public information which indicates that human rights complaints filed against the military are increasing.

Reports of human rights violations by the military are occurring in the context of military law enforcement activities against powerful drug cartels and organized crime. Law enforcement duties in such situations are difficult and dangerous. Nevertheless, crime cannot be fought with crime. Neither should the severity of a crisis become justification for the use of illegal methods or a pretext for turning a blind eye when abuses are committed. Amnesty International hopes this report and its recommendations will help the Mexican government address this pattern of serious human rights violations swiftly and effectively.

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Index: AMR 41/058/2009
December 2009

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