

Amnesty International

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Mexican Supreme Court's resolution on Atenco– the route to justice?

Amnesty International welcomes the Supreme Court's acknowledged that serious human rights violations were committed in San Salvador Atenco in May 2006 and its call for extended investigations to establish criminal responsibility of those directly implicated. It is now imperative that the government of President Felipe Calderón takes responsibility for guaranteeing justice and compensation for the victims in the Atenco case.

The Supreme Court resolution comes two years after opening a non-jurisdictional investigation into the police operation to quell a demonstration in San Salvador Atenco on 3 and 4 May 2006. The operation resulted in the detention of more than 200 people and hundreds of allegations of abuses, including sexual violence used as a form of torture against more than 26 women who were arrested. Those responsible for the abuses have not been brought to justice and the victims have not received any compensation.

In addition, Amnesty International believes that the Supreme Court resolution, in dismissing the alleged responsibility of senior state and federal officials, fails to meet Mexico's obligations under international human rights law. According to international conventional law, Mexico is required to investigate state officials suspected of ordering, instigating or inciting the use of torture or carrying it out directly, as well as those who are in a position to prevent it and fail to do so.

The resolution appears to ignore the valuable work of the investigative commission and the report presented to the plenary of justices by Justice Gudiño which concluded that even when there is no evidence that senior officials ordered police to commit human rights violations, they may be implicated by their failure to stop violations once they were aware of them taking place and by their complete failure to ensure effective and credible investigations into the abuses. These two principles are consistent with determining command responsibility under international human rights law and must be upheld by those conducting the criminal investigations.

Amnesty International also regrets that the ruling does not acknowledge the quality and quantity of evidence gathered by the investigating commission to establish human rights violations as recognised in international treaties, such as torture. Rather, the court only refers to violations of individual guarantees, and does not explicitly recognise the international treaties which are binding on the Mexican State.

Furthermore, the organisation is concerned by the inclusion in the resolution of a proposal to draw up general criteria on use of force by the State solely on the basis of constitutional principles of legality, efficiency, professionalism and honesty. If situations such as Atenco are to be avoided in the future, it is essential that these procedures are developed and implemented on the basis of the international standards referred to in Justice Gudiño's report, including proportionality, necessity and accountability.

Despite the limitations of the Court's resolutions, Amnesty International believes that President Calderón's government must show leadership in ensuring that criminal investigations are carried out impartially and effectively into all those responsible for the human rights violations. Only a commitment at the highest level will be enough to ensure justice, truth and

reparations for all the victims, from the women who suffered torture, including sexual violence, to those who have been sentenced in unfair trials.

Background Information

On 3 and 4 May 2006 more than 2,500 federal, state and municipal police officers took part in an operation to quell protests led by the peasant organisation, the Peoples' Front for the Defence of the Land (FPDT), in Texcoco and San Salvador Atenco, in the State of Mexico. The police operation resulted in 207 detentions, the deaths of two people, dozens of protesters and police being injured and several police officers being held hostage. In its report *Violence against women and justice denied in Mexico State* (AMR 41/02/2006) Amnesty International documented the sexual violence suffered by the women who were detained. In February 2007, in accepting Justice Gudiño's request to open an enquiry, the Supreme Court was exercising its constitutional authority to order an investigation into "events which constitute a violation of any individual guarantee".