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Amnesty International

MEXICO

APPEAL CASES

MEXICO: LAWS WITHOUT JUSTICE



29 May 2007

AI Index: AMR 41/015/2007

INTRODUCTION

The following appeal cases illustrate a common pattern of human rights violations committed within the public security and criminal justice system in Mexico that is documented in Amnesty International's report *Laws without Justice: Human Rights Violations and Impunity in the Public Security and Criminal Justice System* (AMR 41/002/2007)¹.

Mexico has signed and ratified most international and regional human rights instruments and maintains an open invitation to international and regional human rights bodies and non-governmental human rights organizations to scrutinise the human rights situation. Despite this apparent readiness to improve respect for human rights, widespread abuses committed in the context of the public security and criminal justice system remain one of the central obstacles to major advances in the protection of human rights and access to justice.

Amnesty International (AI) research has found that scores of individuals across Mexico are often detained on the basis of flawed or non-existent evidence and denied basic rights, resulting in miscarriages of justice and destroying all confidence in the justice system and the rule of law. This is particularly critical in cases of violence against women, indigenous and poor people. In most cases, it is the poorest and most vulnerable members of society who suffer abuses while in custody and they are also provided with the least experienced and competent defence lawyers. According to a census conducted by Mexico's Federal Public Defenders Institute, in 2004 there were only 82 lawyers with the required qualifications to represent Mexico's 13 million indigenous people in the federal courts.

The use of torture and ill-treatment during detention and to obtain confession is common in the public security and criminal justice system in Mexico. As the report shows, most criminal suspects are denied access to adequate legal advice and representation at the point of detention when they are most at risk of torture and intimidation. Reports of ill-treatment while in custody are routinely dismissed or ignored by the authorities and the burden of proof lies with the victim when there are allegations of torture or ill-treatment. Arbitrary and incommunicado detentions, torture and ill-treatment most commonly occur when suspects are detained under *in flagrante* provisions that do not require an arrest warrant and that have a broad scope.

In practice, criminal suspects are often presumed guilty until proven innocent. Prosecutors have excessive powers to determine the value of evidence. Procedural rules and judicial decisions encourage judges to presume the credibility and legality of evidence put forward by prosecutors, without ensuring that this is explicitly examined on the basis of the presumption of innocence of a criminal suspect. Amnesty International has documented many cases in which arrest and prosecutions are authorized on the basis of insufficient or fabricated evidence.

AI acknowledges the difficulties that law enforcement officials may encounter in policing operations, but the organisation is concerned about the excessive use of force often to break up social demonstrations and the misuse of the public security and criminal justice system to persecute human rights defenders and political opponents. Such abuses can serve to deter legitimate protests and induce individuals and organizations to withdraw social demands or complaints of official wrongdoing. Some human rights defenders and political opponents have the threat of arrest hanging over them for years because spurious arrest warrants are issued but not acted on.

Impunity for human rights violations remains the rule. The lack of accountability for public security and criminal justice officials means that they are free to resort to abusive practices when carrying out their duties, in the knowledge that they will not be sanctioned. Even in the few cases where official investigations have been undertaken into abuses, accountability mechanisms are so weak that those responsible are rarely brought to justice. The cases in this document only represent a small proportion of those documented by Amnesty International and many Mexican human rights organizations. However, justice in these cases is essential if the barrier of impunity, which continues to undermine human rights and the rule of law, is to be dismantled.

Please take action to call for an end to these human rights violations and impunity in Mexico, where there are many laws but little justice. The cases of Oaxaca, San Salvador Atenco and Yucatán highlighted in this document need your action and solidarity, **ACT NOW!**

¹ Summary report: *Injustice and Impunity: Mexico's flawed criminal justice system* (AMR 41/001/2007).
Amnesty International, AMR 41/015/2007

1. MAGDALENA GARCÍA DURÁN – PRISONER OF CONSCIENCE



Magdalena García © private

Magdalena García Durán, a Mazahua indigenous activist, street vendor and mother of five children, has been in prison since the morning of 4 May 2006 when she was arbitrarily arrested in San Salvador Atenco, Mexico State.

Amnesty International believes Magdalena García's prolonged detention is politically motivated and totally unjustified. Accordingly to information received, the authorities have failed to provide evidence of her involvement in the crimes of which she has been accused and there are a number of indications that the little evidence available is probably fabricated. The organization therefore considers her to be a prisoner of conscience and is calling for her immediate and unconditional release.

According to information gathered by Amnesty International, on 4 May 2006 several police officers pulled Magdalena García out of the van in which she had travelled to San Salvador Atenco, beat and kicked her repeatedly, then handcuffed and covered her head and forced her to lie on top of other detainees in a waiting vehicle. During the bus journey to the state prison of Santiaguito, near Toluca, other injured detainees were forced to lie on top of her causing near suffocation and panic. Officers repeatedly threatened to kill her "like a dog".

Once in prison, members of the State Public Prosecutor's Office (*Procuraduría de Justicia del Estado de México*) interviewed the detainees, and prison medical staff and forensic officials registered injuries. Despite displaying signs of having suffered severe beating, she was offered paracetamol and the only injury registered was a bruise on her leg. Magdalena García informed an official investigator that she didn't know how to read or write Spanish. Her right to a translator was never upheld at any time during judicial proceedings.

On 9 May Magdalena García made a judicial statement (*declaración preparatoria*) before the court stenographer, the judge was not present. She was apparently not informed of the reason for her detention until she was brought before a judge on 10 May to be committed for trial on charges of kidnapping (*secuestro equiparado*) and for attacks on public roads and means of transport (*ataque a las vías de comunicación y medios de transporte*). During the hearing she was not given the opportunity to register a complaint about her detention or treatment and had to sign her statement without being able to read it.

Her defence lawyer has since presented evidence to demonstrate that Magdalena García was in Mexico City at the time prosecutors allege she helped kidnap six police officers in San Salvador Atenco on 3 May. On 11 August 2006, a federal review court granted the defence an injunction (*amparo*) on the basis that the case did not fall under the jurisdiction of the presiding judge in Toluca, but with the judge in Texcoco, the court nearest the scene of the offences. Nevertheless, the same state judge reissued the official committal for trial (*auto de formal prisión*), in effect sidestepping the federal court ruling.

On 7 November 2006, a second federal injunction (*amparo*) was granted on the basis that the state judge provided insufficient evidence to demonstrate Magdalena García's probable responsibility in the alleged offences and that the state judge had failed to properly weigh up the evidence, including the fact that police statements were identical. However, the state judge did not order her release and the Federal Attorney General's Office (*Procuraduría General de la República - PGR*), which had hitherto claimed to have no interest in the case, filed for a review of the federal injunction. In January 2007 a higher federal court confirmed the original injunction. However, the PGR intervention had provided sufficient time for the state court judge in Toluca, who did not have jurisdiction, to issue another formal committal for trial (*auto de formal prisión*) and simultaneously declare himself without jurisdiction to proceed, passing the case to the judge in Texcoco delaying further Magdalena García's case.

The judge's 1350 page document presents Magdalena García as participating in the kidnap of police on the basis that she was allegedly participating in protests on 4 May, blocking access to the centre of San Salvador Atenco and in effect prevented officers from reaching the police being held as hostages in the municipal auditorium. This modification in the case by the judge tacitly acknowledges that Magdalena García could not have been physically involved in the kidnap on 3 May, but instead accuses her of being an accomplice to the kidnap. However, there appears to be no evidence demonstrating Magdalena García's involvement in the alleged offence: police statements do not refer specifically to any actions of Magdalena García

nor is there any evidence that she was aware that police were being held hostage. On 1 May 2007 she was transferred to Texcoco prison, Mexico State.

Despite failing to comply with the substance of the federal injunction (*amparo*), the state court judge was not found to have violated the injunction and defence lawyers have been forced to file a new injunction. The delays and apparent lack of impartiality of prosecutors and members of the state judiciary involved in judicial proceedings have denied Magdalena García the right to a fair trial as guaranteed under international human rights law. Amnesty believes that the apparent determination to keep her in custody and secure her conviction is politically motivated and the state has failed to provide any reliable evidence of her involvement in the crimes for which she is accused. As a result Amnesty International considers her a prisoner of conscience.

Background

On 3 and 4 May 2006, state and federal police took part in operations against demonstrations led by a local peasant farmers organization, People's Front in Defence of the Land (*Frente de Pueblos en Defensa de la Tierra, FPDT*) in Texcoco and San Salvador Atenco,

Mexico State. The police operation resulted in the arrest of 207 people, the death of two civilians, scores of injured protesters and police, a number of police being held hostage temporarily and many detainees suffering torture, ill-treatment and sexual assault (see Amnesty International's report *Mexico: Violence against women and justice denied in Mexico State*, AI index AMR 41/028/2006).

At the time of writing, more than 150 of the people detained during the protests are being prosecuted on charges of attacking public roads (*ataques a las vías de comunicación*), 24 of them are still in prison charged with the additional serious offence of kidnapping police officers. Judicial proceedings against the accused have been mired by irregularities and have consistently failed to meet international human rights standards.

In October 2006, the National Human Rights Commission (CNDH) issued recommendation 38/2006, calling for criminal investigations by state and federal authorities into widespread abuses committed during the police operation. However, the authorities have not implemented the recommendation effectively. In February 2007, the National Supreme Court (*Suprema Corte de Justicia de la Nación*) instructed a special judicial commission to investigate the abuses. Its findings are pending at the time of writing.

TAKE ACTION!

Write to Magdalena García expressing your solidarity - c/o: Bufete Jurídico Tierra y Libertad, Antonio Caso No. 73, Despacho 22, Col. San Rafael, México D.F., C.P. 06470, MEXICO. (Please be polite and brief).

Write to the Mexican authorities and the Mexican embassy in your country:

- expressing concern at the arbitrary and prolonged detention of Magdalena García on what appear to be spurious charges and fabricated and unreliable evidence, stating the belief that she is a prisoner of conscience and calling for the immediate and unconditional release in line with the substance of the federal injunction (*amparo*) previously issued;
- expressing concern and calling for a full, prompt and impartial investigation into the arbitrary detention, ill-treatment, torture and prolonged detention without trial of Magdalena García Durán, and for all those responsible to be brought to justice and for her to receive reparations;
- calling for the effective implementation of the CNDH recommendation 38/2006 and for judicial proceedings against others detained during the police operation in San Salvador Atenco on 3 and 4 May 2006 to comply with international human rights standards, including the right to fair trial and the right to be free from arbitrary detention;
- recognise the obligation of the authorities to guarantee public order and to strictly carry out any policing operation in accordance with international human rights standards.

Appeals to:

President of Mexico: Lic. Felipe Calderón Hinojosa, Presidente de los Estados Unidos Mexicanos, Residencia Oficial de "Los Pinos", Casa Miguel Alemán, Col. San Miguel Chapultepec, México D.F., C.P. 11850, MEXICO, **Fax:** +52 55 52772376, **E-mail:** felipe.calderon@presidencia.gob.mx, **Salutation:** Señor Presidente / Dear Mr President

Governor of Mexico State: Lic. Enrique Peña Nieto, Gobernador del Estado de México, Palacio de Gobierno, 1º piso, Lerdo Poniente No. 300 Poniente, Col. Centro, Toluca 50000, Estado de México, MEXICO, **Fax:** +52 722 214 4172, **Email:** gob@gem.gob.mx, **Salutation:** Dear Governor/ Señor Gobernador

Public Prosecutor of Mexico State: Lic. Abel Villacaña Estrada, Procurador General de Justicia del Estado de México, Av. Morelos Oriente. No. 1300, Piso 6, Centro Estatal de Justicia, Col. San Sebastián, Toluca 50090, Estado de México, MÉXICO, **Fax:** +52 722 2153123, **Email:** abel.v.e@edomex.gob.mx, **Salutation:** Dear Prosecutor/ Señor Procurador

Federal Attorney General: Lic. Eduardo Medina-Mora Icaza, Procurador General de la República, Procuraduría General de la República, Paseo de la Reforma No. 211-213, Piso 16, Col. Cuauhtémoc, Del. Cuauhtémoc, México D.F., C.P. 06500, MEXICO, **Fax:** +52 55 53 46 09 08, **Email:** ofproc@pgr.gob.mx, **Salutation:** Señor Procurador/ Dear Attorney General

2. GERMÁN MENDOZA NUBE



Political and teachers' union activist Germán Mendoza at an AI press conference in 2007
© AI

Germán Mendoza Nube, a political and teachers' union activist from Oaxaca, was detained outside his home on 9 August 2006 by a group of unidentified armed men. He was held incommunicado for 3 days without access to adequate medical care before being handed to a state prison. He is paraplegic and diabetic.

In July 2005, in an apparent reprisal for his political activism Germán Mendoza was detained for an alleged attempted murder filed by the State Public Prosecutor's Office (*Procuraduría General de Justicia del Estado - PGJE*). In October 2005 he was released, the charges were dropped after his defence proved he was not involved in the alleged incident. However, in February 2006, the PGJE reopened the investigation and in May secured a second arrest warrant on the basis of the same evidence as the initial investigation.

At the height of protests in Oaxaca, on 9 August 2006, the wheelchair bound Germán Mendoza was about to enter his home in Oaxaca City accompanied by two friends, when a group of armed men, in civilian clothes ambushed them. The assailants did not identify themselves or present an arrest warrant. Germán Mendoza's friends tried to prevent the apparent abduction but were attacked and beaten by the assailants, who bundled the three into waiting vehicles. Germán Mendoza's wheelchair and medication were discarded by the armed men despite his appeals. The three of them were transferred by air to Tlacolula Prison, Oaxaca. Germán Mendoza's friends were released one day later without charge.

For the next three days Germán Mendoza was held incommunicado and transported to a series of different locations, without being informed of the reasons for his detention. As he was not given the necessary

medication or food for one day, he suffered a hypoglycaemic crisis. Though he was briefly taken to a hospital and his health condition stabilised, the police officers guarding him did not allow the hospital staff to provide adequate medical attention or notify the authorities or his family.

On 11 August, he was taken to Miahuatlán state prison, State of Oaxaca, where he was told he had been arrested on account of the outstanding arrest warrant, for attempted murder, and, allegedly, for being in possession of firearms, a serious federal offence. The latter charge was based on the state police report to federal prosecutors.

After almost three months in prison, Germán Mendoza and two other prisoners, Ramiro Aragón and Erangelio Mendoza, were unexpectedly transferred by air to Mexico City and released in front of the official negotiating table between the federal Ministry of Interior and protesters. Germán Mendoza was not given confirmation that charges against him had been dropped and the status of the case remains unclear. He fears that he may be attacked or arrested at any time if he returns to Oaxaca. Amnesty International is not aware of any investigation into his detention, his treatment during detention or the misuse of the criminal justice system in what appears to be an unfounded prosecution against him.

Background information

The city of Oaxaca experienced a political and human rights crisis during the second half of 2006 with a series of mass demonstrations and some violent clashes with security forces. More than 20 civilians were killed, at least 370 injured (including police), and 349 arrests were made.

Protests in Oaxaca started in May 2006 when teachers went on strike calling for improved pay and conditions. The use of excessive force by state police in an attempt to remove teachers on 14 June led to a radicalization of the protest and the formation of the *Asamblea Popular del Pueblo de Oaxaca* (Popular Assembly of the People of Oaxaca - APPO), an umbrella organization of social and political groups. Protesters occupied the city centre including public buildings and radio stations, demanding the resignation of the state governor. In July and August the climate of violence increased with the killing of a number of APPO supporters, arbitrary and incommunicado detentions, and the use of torture and unfounded criminal charges to intimidate and detain activists. Many of these abuses were committed by unidentified armed men, believed to be police or local ruling party sympathisers, acting in coordination with the authorities. Protesters established barricades in many parts of the city and there was a general breakdown in public security.

On 27 October three people were killed (US journalist Brad Will, teacher Esteban López Zurita and community member Emilio Alonso Fabián) during clashes between supporters of the governing party backed by armed men and police and protesters on barricades. As a result, the federal government ordered the intervention of nearly 5000 Federal Preventive Police (PFP) to restore order.

Since November 2006 more than 200 protesters have been detained by federal and state police during clashes or arrested on the basis of their alleged involvement in violence. Many detainees have reportedly been subject to ill-treatment, torture and

denial of access to family and independent legal counsel. Many were also not apparently involved in violence and evidence against them was reportedly fabricated. By April 2007 more than 40 people remained in custody in connection with disturbances in Oaxaca, including several APPO leaders. Many others faced the threat of arrest or were on bail pending trial. Violations in due process and judicial proceedings raise concern about the impartiality of investigations and access to fair trials. Amnesty International is not aware that municipal, state or federal officials are being investigated in relation to the human rights violations reported during the crisis.

TAKE ACTION!

Write to Germán Mendoza Nube expressing your solidarity - c/o: Centro de Derechos Humanos Miguel Agustín Pro Juárez, Serapio Rendón no.57/B, Col. San Rafael, C.P. 06470, México D.F., MEXICO. (Please be polite and brief).

Write to the Mexican authorities and the Mexican embassy in your country:

- calling for a full, prompt and impartial investigation into the ill-treatment of Germán Mendoza Nube during detention in August 2006 and the failure to ensure adequate and timely medical attention for his condition as a diabetic and paraplegic, for the results to be made public and for all those responsible to be brought to justice;
- calling for a full, prompt and impartial investigation into the incommunicado and arbitrary detention, and apparent unfounded prosecution of Germán Mendoza Nube, for the results to be made public and for all those responsible to be brought to justice;
- calling for a full, prompt and impartial investigation into the involvement of unidentified armed men in the arrest of Germán Mendoza, and for their links to the authorities to be clarified;
- calling for a full review of Germán Mendoza Nube case according to international human rights standards, including the right to fair trial, for his judicial situation to be clarified and for him to receive reparations for the violation of his rights.

Appeals to:

Minister of the Interior: Lic. Francisco Ramirez Acuña, Secretario de Gobernación, Secretaría de Gobernación, Bucareli 99, 1er. Piso, Col. Juárez, Del. Cuauhtémoc, México D.F., C.P. 06600, MEXICO, **Fax:** + 52 55 5093 3414, **Email:** frjramirez@segob.gob.mx, **Salutation:** Dear Minister/Estimado Secretario.

Federal Attorney General: Lic. Eduardo Medina-Mora Icaza, Procurador General de la República, Procuraduría General de la República, Paseo de la Reforma n° 211-213, Piso 16, Col. Cuauhtémoc, Del. Cuauhtémoc, México D.F., C.P. 06500, MEXICO, **Fax:** +52 55 5346 0908, **Email:** ofproc@pgr.gob.mx, **Salutation:** Señor Procurador General / Dear Attorney General.

Governor of Oaxaca: Ulises Ruiz Ortiz, Gobernador del Estado de Oaxaca, Carretera Oaxaca - Puerto Angel, Km. 9.5, Santa María Coyotopec, C.P. 71254, Oaxaca, Estado de Oaxaca, MEXICO, **Fax:** + 52 951 511 6879, **Salutation:** Señor Gobernador/Dear Governor.

President of the National Human Rights Commission: Dr. José Luis Soberanes Fernández, Presidente de la Comisión Nacional de Derechos Humanos (CNDH), Periférico Sur 3469, 5º piso, Col. San Jerónimo Lídice, México D.F., C.P. 10200, MÉXICO, **Fax:** + 52 55 5681 7199, **E-mail:** correo@cndh.org, **Salutation:** Señor Presidente/Dear President.

3. RAMIRO ARAGÓN



Ramiro Aragón at an AI press conference in 2007 © AI

On the night of 9 August 2006 **Ramiro Aragón Pérez** (ornithologist), his brother-in-law Elionai Santiago Sánchez (teacher) and their friend Juan Gabriel Ríos (teacher) were detained and tortured by unidentified armed individuals before being handed to Oaxaca State police.

The three men were driving around the streets of Oaxaca in search of Germán Mendoza Nube, a political and teachers' union activists, and his two friends who had been abducted earlier. Suddenly, two vehicles blocked their path and four armed men, believed to be policemen in plain clothes, made Ramiro Aragón, Elionai Santiago Sánchez and Juan Gabriel Ríos get out of the car at gunpoint. When they discovered that two of them were teachers, they were handcuffed and forced into a van, where they were reportedly tortured in an apparent attempt to extract information about protests in Oaxaca.

According to their testimony, Ramiro Aragón was hit by his assailants in the abdomen, had a cigarette extinguished on his forehead, the back of his neck was cut and part of his hair was pulled out. The assailants also reportedly threatened to rape and kill his wife and children. Elionai Santiago Sánchez was partially strangled, beaten in the abdomen, ribs and face and his ear was cut. Juan Gabriel Ríos was also severely beaten. The assailants reportedly made phone calls to the authorities and after half an hour, the three were handed over to Oaxaca State police waiting in a side street. They were then taken to Ejutla municipal prison. A doctor asked their names, but did not provide any medical attention. The following morning, a doctor from the Federal Public Prosecutor's Office (*Procuraduría General de la República*, PGR) examined them, but the examination was not thorough enough to comply with the Istanbul Protocol, which the PGR has agreed to carry out in all cases.

The following day, the three men were taken to the PGR office in Oaxaca City and charged with illegal possession of firearms. According to state police, the three men had been arrested while running away from a street fight and were carrying firearms. However, the three men denied the charges and denied ever having seen the weapons or having been arrested by police. Ramiro and his friends informed the PGR about the torture they suffered but no action was taken.

On 12 August, Ramiro Aragón and his friends were charged with illegal possession of fire arms. Ramiro Aragón was remanded in custody and Elionai Sánchez and Juan Gabriel Ríos were released on bail pending trial. During his three months in custody, Ramiro Aragón was never able to see or speak to the judge.

On 30 October, Ramiro Aragón and two other prisoners, Germán Mendoza Nube and Erangelio Mendoza González, were unexpectedly transferred by air to Mexico City and released in front of the official negotiating table between the federal Ministry of Interior and protesters. Ramiro Aragón was not given confirmation that charges against him had been dropped and the status of the case remains unclear. He fears that he may be attacked or arrested at any time if he returns to Oaxaca.

A federal injunction (*amparo*) against the committal for trial (*auto de formal prisión*) required a review of Ramiro Aragón's case, but Amnesty International is not aware of any action to comply with this ruling. Ramiro Aragón reported his case to the Oaxaca State Human Rights Commission (*Comisión Estatal de Derechos Humanos de Oaxaca*, CEDHO) and the National Human Rights Commission (*Comisión Nacional de Derechos Humanos*, CNDH). However, neither the CNDH nor the CEDHO have carried out a full enquiry and the torture he and his friends suffered has not been investigated by state or federal authorities.

Background information

The city of Oaxaca experienced a political and human rights crisis during the second half of 2006 with a series of mass demonstrations and some violent clashes with security forces. More than 20 civilians were killed, at least 370 injured (including police), and 349 arrests were made.

Protests in Oaxaca started in May 2006 when teachers went on strike calling for improved pay and conditions. The use of excessive force by state police in an attempt to remove teachers on 14 June led to a radicalization of the protest and the formation of the *Asamblea Popular del Pueblo de Oaxaca* (Popular Assembly of the People of Oaxaca - APPO), an umbrella organization of social and

political groups. Protesters occupied the city centre including public buildings and radio stations, demanding the resignation of the state governor. In July and August the climate of violence increased with the killing of a number of APPO supporters, arbitrary and incommunicado detentions, and the use of torture and unfounded criminal charges to intimidate and detain activist. Many of these abuses were committed by unidentified armed men, believed to be police or local ruling party sympathisers, acting in coordination with the authorities. Protesters established barricades in many parts of the city and there was a general breakdown in public security.

On 27 October three people were killed (US journalist Brad Will, teacher Esteban López Zurita and community member Emilio Alonso Fabián) during clashes between supporters of the governing party backed by armed men and police and protesters on barricades. As a result, the federal government ordered

the intervention of nearly 5000 Federal Preventive Police (PFP) to restore order.

Since November 2006 more than 200 protesters have been detained by federal and state police during clashes or arrested on the basis of their alleged involvement in violence. Many detainees have reportedly been subject to ill-treatment, torture and denial of access to family and independent legal counsel. Many were also not apparently involved in violence and evidence against them was reportedly fabricated. By April 2007 more than 40 people remained in custody in connection with disturbances in Oaxaca, including several APPO leaders. Many others faced the threat of arrest or were on bail pending trial. Violations in due process and judicial proceedings raise concern about the impartiality of investigations and access to fair trials. Amnesty International is not aware that municipal, state or federal officials are being investigated in relation to the human rights violations reported during the crisis.

TAKE ACTION!

Write to Ramiro Aragón expressing your solidarity - c/o: Centro de Derechos Humanos Miguel Agustín Pro Juárez, Serapio Rendón no.57/B, Col. San Rafael, C.P. 06470, México D.F., MEXICO. (Please be polite and brief).

Write to the Mexican authorities and the Mexican embassy in your country:

- calling for a full, prompt and impartial investigation into the arbitrary detention, torture and apparent unfounded prosecution of Ramiro Aragón, Elionai Santiago Sánchez and Juan Gabriel Ríos, for the results to be made public and for all those responsible to be brought to justice;
- calling for a full, prompt and impartial investigation into the involvement of unidentified armed men in the arrests of Ramiro Aragón, Elionai Santiago Sánchez and Juan Gabriel Ríos and handing them over to the authorities, and for their links to the authorities to be clarified;
- calling for Ramiro Aragón's judicial situation to be clarified and his case to be reviewed, as it was ruled in the federal injunction (*amparo*) against the committal for trial (*auto de formal prisión*), in accordance with international human rights standards, including the right to fair trial and to receive full reparations for the violation of his rights;
- calling for a full review of Elionai Santiago Sánchez and Juan Gabriel Ríos cases in accordance with international human rights standards and for them to receive full reparations for the violation of their rights.

Appeals to:

Minister of the Interior: Lic. Francisco Ramirez Acuña, Secretario de Gobernación, Secretaría de Gobernación, Bucareli 99, 1er. Piso, Col. Juárez, Del. Cuauhtémoc, México D.F., C.P.06600, MEXICO, **Fax:** + 52 55 5093 3414, **Email:** frjramirez@segob.gob.mx, **Salutation:** Dear Minister/Estimado Secretario

Federal Attorney General: Lic. Eduardo Medina-Mora Icaza, Procurador General de la República, Procuraduría General de la República, Paseo de la Reforma n° 211-213, Piso 16, Col. Cuauhtémoc, Del. Cuauhtémoc, México D.F., C.P. 06500, MEXICO, **Fax:** +52 55 5346 0908, **Email:** ofproc@pgr.gob.mx, **Salutation:** Señor Procurador General / Dear Attorney General

Governor of Oaxaca: Ulises Ruiz Ortiz, Gobernador del Estado de Oaxaca, Carretera Oaxaca - Puerto Angel, Km. 9.5, Santa María Coyotopec, C. P. 71254, Oaxaca, Estado de Oaxaca, MEXICO, **Fax:** + 52 951 511 6879, **Salutation:** Señor Gobernador/Dear Governor

President of the National Human Rights Commission: Dr. José Luis Soberanes Fernández, Presidente de la Comisión Nacional de Derechos Humanos (CNDH), Periférico Sur 3469, 5° piso, Col. San Jerónimo Lídice, México D.F., C.P. 10200, MÉXICO, **Fax:** + 52 55 5681 7199, **E-mail:** correo@cndh.org, **Salutation:** Señor Presidente/Dear President

4. JOSÉ GREGORIO ARNULFO PACHECO



José Gregorio Arnulfo Pacheco and his wife Flora Sánchez at an AI press conference in 2007 © Sergio Lev. El Sol de México

Early in the morning of 4 May 2006, **José Gregorio Arnulfo Pacheco**, his wife Flora Sánchez and their son Ulises Pacheco were beaten and arrested in their home in San Salvador Atenco, Mexico State, during a police operation intended to break up violent protests that had started the previous day in the neighbouring town of Texcoco.

When Flora Sánchez and Ulises Pacheco informed police that José Gregorio Arnulfo Pacheco suffered from a degenerative disease severely restricting his balance, movement and speech, officers refused to believe them. They repeatedly beat and kicked José Gregorio Arnulfo Pacheco, his wife and son and dragged the three of them to waiting police vehicles. As with the other detainees, José Gregorio Arnulfo's head was covered and he was forced to lie on the floor of the vehicle while others were made to walk on top of him. Those arrested were repeatedly beaten and threatened.

Once in prison, the severity of José Gregorio Arnulfo Pacheco's physical injuries led prison doctors to order his transfer to a hospital. He was subsequently diagnosed with fractured ribs, a fractured trachea, cranial fissures and severe bruising. He was returned to the prison hospital wing after five days.

On 10 May, even though José Gregorio Arnulfo Pacheco had not been brought before a judge to make an official statement or notified of the charges against him, the presiding judge remanded José Gregorio Arnulfo Pacheco in custody pending trial, along with 28 other detainees on charges of attacking public roads (*ataque a las vías de comunicación*) and kidnapping police officers (*secuestro equiparado*). As his wife and son were charged with attacks on public roads, a lesser offence, they were released on bail. They deny the charges but judicial proceedings continue against them.

The charges against José Gregorio Arnulfo Pacheco were based on the statement made to a prosecutor by a state female police officer, alleging that he was responsible for binding and gagging her during her

abduction by protesters. However, the officer did not appear in court to substantiate the statement and confirm José Gregorio Arnulfo Pacheco's identity. Gregorio Arnulfo Pacheco spent a further month in prison without receiving adequate medical attention.

On 21 June he was brought before the state judge and ordered to lift various objects and prove his medical condition. As a result of this hearing, the judge halted the prosecution and ordered his release on 23 June for lack of evidence. The State Public Prosecutor's Office unsuccessfully filed an appeal against his release. Amnesty International is not aware of an investigation into the arbitrary detention, torture and unfounded prosecution of José Gregorio Arnulfo Pacheco.

As a result of his treatment and his degenerative illness José Gregorio Arnulfo Pacheco is now confined to a wheelchair.

Background information

On 3 and 4 May 2006, nearly 3000 municipal, state and federal police took part in operations against demonstrations led by a local peasant farmers organization, People's Front in Defence of the Land (*Frente de Pueblos en Defensa de la Tierra, FPDT*) in Texcoco and San Salvador Atenco, Mexico State. The police operation resulted in the arrest of 207 people, the death of two civilians, scores of injured protesters and police, a number of police being held hostage temporarily and many detainees suffering torture, ill-treatment and sexual assault (see Amnesty International's report *Mexico: Violence against women and justice denied in Mexico State*, AI index AMR 41/028/2006).

At the time of writing, more than 150 of the people detained during the protests are being prosecuted on charges of attacking public roads (*ataques a las vías de comunicación*), 24 of them are still in prison charged with the additional offence of kidnapping police officers. Judicial proceedings against the accused have been mired by irregularities and have consistently failed to meet international human rights standards including fair trial. On May 2007 three FPDT leaders were each sentenced to 67 years in prison for allegedly kidnapping public officials in February and April 2006.

Of nearly 3000 federal, state and municipal police involved in the 3 and 4 May operations, only nine police officers have been disciplinary sanctioned, 20 Mexico State police officers are being prosecuted for the lesser offence of abuse of authority and one for libidinous acts (*actos libidinosos*).

In October 2006, the National Human Rights Commission (*Comisión Nacional de Derechos Humanos, CNDH*) issued recommendation 38/2006, calling for criminal investigations

by state and federal authorities into widespread abuses committed during the police operation. However, the authorities have not implemented the recommendation effectively. In February 2007, the National Supreme

Court (*Suprema Corte de Justicia de la Nación*) instructed a special judicial commission to investigate the abuses. Its findings are pending at the time of writing.

TAKE ACTION!

Write to José Gregorio Arnulfo Pacheco and his family expressing your solidarity - c/o: Centro de Derechos Humanos Miguel Agustín Pro Juárez, Serapio Rendón no.57/B, Col. San Rafael, C.P. 06470, México D.F., MEXICO. (Please be polite and brief).

Write to the Mexican authorities and the Mexican embassy in your country:

- expressing concern at the arbitrary detention, torture and apparent unfounded prosecution of José Gregorio Arnulfo Pacheco, his wife and son;
- calling for a full, prompt and impartial investigation into his arbitrary detention, torture and apparent unfounded prosecution, for those responsible to be brought to justice and for José Gregorio Arnulfo Pacheco and his family to receive reparations;
- calling for the effective implementation of the CNDH recommendation 38/2006, ensuring human rights violations in connection with the Texcoco and San Salvador Atenco police operations are investigated and for judicial proceedings against others detained during the police operation in San Salvador Atenco on 3 and 4 May 2006 to comply with international human rights standards, including the right to fair trial;
- recognise the obligation of the authorities to guarantee public order and to strictly carry out any policing operation in accordance with international human rights standards, such as the UN Code of Conduct for Law Enforcement Officials.

Appeals to:

Governor of Mexico State: Lic. Enrique Peña Nieto, Gobernador del Estado de México, Palacio de Gobierno, 1º piso, Lerdo Poniente No. 300 Poniente, Col. Centro, Toluca 50000, Estado de México, MEXICO, **Fax:** (+52 722) 214 4172, **Email:** gob@gem.gob.mx, **Salutation:** Dear Governor/ Señor Gobernador

Public Prosecutor of Mexico State: Lic. Abel Villacaña Estrada, Procurador del Estado de México, Av. Morelos Ote. No. 1300, Piso 6, Centro Estatal de Justicia, Col. San Sebastián, Toluca 50090, Estado de México, MÉXICO, **Fax:** +52 722 215 3123, **Salutation:** Dear Prosecutor/ Señor Procurador, **Email:** abel.v.e@edomex.gob.mx

Minister of the Interior: Lic. Francisco Javier Ramírez Acuña, Secretario de Gobernación, Secretaría de Gobernación Bucareli 99, 1er. piso, Col. Juárez, Del. Cuauhtémoc, México D.F., C.P.06600, MEXICO, **Fax:** (+52 55) 5093 3414 **E-mail:** frjramirez@segob.gob.mx, **Salutation:** Señor Secretario / Dear Minister

President of the National Human Rights Commission: Dr. José Luis Soberanes Fernández, Presidente de la Comisión Nacional de Derechos Humanos, Periférico Sur 3469, 5º piso, Col. San Jerónimo Lídice, México D.F. 10200, MEXICO, **Fax:** (+52 55) 56 81 81 25, then dial 9, **E-mail:** correo@cndh.org

5. BÁRBARA ITALIA MÉNDEZ



Bárbara Italia Méndez© private

27 year-old **Bárbara Italia Méndez** was detained on the morning of 4 May 2006 in a house in San Salvador Atenco, Mexico State, where she had taken refuge from advancing police. She had gone to San Salvador Atenco from Mexico City after hearing news about the killing of a minor, of clashes with the police and of community protests.

According to her testimony, members of the Federal Preventive Police (*Policía Federal Preventiva*, PFP) broke into the house and arrested her without explanation. Police pulled her hair, forced her to squat down and began to beat her, leaving her with head injuries and multiple bruising. With her shirt pulled over her head, she was then forced into a police vehicle and made to lie on top of other detainees. During the journey to the Santiaguito prison near Toluca, Mexico State, she was forced to remove clothing and was severely beaten, threatened, sexually assaulted and raped with different objects by members of the state police, who were reportedly cheered on by colleagues.

26 of the 47 women arrested during the police operation the 3 and 4 May in San Salvador Atenco have complained to the authorities, as well as to national and international human rights bodies, that they were subject to physical, psychological and sexual violence by the police officers who arrested them, in particular when they were being transferred to prison in several police vehicles.

Early on the morning of 5 May she was brought before a representative of the State Public Prosecutor's Office (*Procuraduría General de Justicia del Estado*, PGJE) who said the reason for her detention was "unknown". She refused to make a statement as she did not have a defence lawyer. Instead, she tried to complain about the rape and abuse she had suffered. When she was making her statement another official from the prosecutor's office reportedly tore it up and told her that

she could only testify about what she was doing in San Salvador Atenco.

The first medical check up was carried out by doctors from the prison who only documented some of the visible injuries and failed to gather evidence of possible sexual abuse. On 5 May the National Human Rights Commission (*Comisión Nacional de Derechos Humanos*, CNDH) took her statement on the abuses she had suffered and requested a medical examination which was carried out by forensic examiners of the PGJE. However, the examination was neither impartial nor thorough, and did not comply with the Istanbul Protocol. On 15 May she was released on bail charged with attacks on public roads and means of transport (*ataque a las vías de comunicación y medios de transporte*).

After the initial outcry at the allegations of abuses against the detainees, the State Public Prosecutor's Office, which repeatedly dismissed the allegations, reluctantly opened an enquiry. However, officials responsible for sexual violence have not been prosecuted as the PGJE argued that the victims, whose faces were covered, did not identify the aggressors. Only one woman, who was forced to have oral sex with a police officer, was able to identify her aggressor. However, he has only been charged with the lesser criminal offence of 'libidinous acts' (*actos libidinosos*) and released on bail during the judicial process. The federal authorities have consistently refused to carry out a full investigation and no senior official has been held to account.

Bárbara Italia Méndez and many other women who suffered torture, including sexual violence, filed complaints with the newly formed Special Federal Prosecutor for Violence against Women (*Fiscalía Especial para la Atención de Delitos relacionados con Actos de Violencia contra Mujeres*, FEVIM), part of the Office of the Federal Attorney General (*Procuraduría General de la República*) and undertook independent medical examinations to gather evidence of the abuses suffered. However, the FEVIM has not claimed jurisdiction to prosecute the cases directly and has not so far been able to secure advances in the state level investigation.

Background

On 3 and 4 May 2006, nearly 3000 municipal, state and federal police took part in operations against demonstrations led by a local peasant farmers organization, People's Front in Defence of the Land (*Frente de Pueblos en Defensa de la Tierra*, FPDT) in Texcoco and San Salvador Atenco, Mexico State. The police operation resulted in the arrest of 207 people, the death of two civilians, scores of injured protesters and police, a number of police being held hostage temporarily and many

detainees suffering torture, ill-treatment and sexual assault (see Amnesty International's report *Mexico: Violence against women and justice denied in Mexico State*, AI index AMR 41/028/2006).

At the time of writing, more than 150 of the people detained during the protests are being prosecuted on charges of attacking public roads (*ataques a las vías de comunicación*), 24 of them are still in prison charged with the additional offence of kidnapping police officers. Judicial proceedings against the accused have been mired by irregularities and have consistently failed to meet international human rights standards including fair trial. On May 2007 three FPDT leaders were each sentenced to 67 years in prison for allegedly kidnapping public officials in February and April 2006.

Of nearly 3000 federal, state and municipal police involved in the 3 and 4 May operations, only nine police officers have been disciplinary sanctioned, 20 Mexico State police officers are being prosecuted for the lesser offence of abuse of authority and one for libidinous acts (*actos libidinosos*).

In October 2006, the National Human Rights Commission (CNDH) issued recommendation 38/2006, calling for criminal investigations by state and federal authorities into widespread abuses committed during the police operation. However, the authorities have not implemented the recommendation effectively. In February 2007, the National Supreme Court (*Suprema Corte de Justicia de la Nación*) instructed a special judicial commission to investigate the abuses. Its findings are pending at the time of writing.

TAKE ACTION!

Write to Bárbara Italia Méndez expressing your solidarity - c/o: Centro de Derechos Humanos Miguel Agustín Pro Juárez, Serapio Rendón no.57/B, Col. San Rafael, C.P. 06470, México D.F., MEXICO. (Please be polite and brief).

Write to the Mexican authorities and the Mexican embassy in your country:

- expressing concern at the rape, sexual violence and torture of Bárbara Italia Méndez, and other women during their detention on 3 and 4 May in San Salvador Atenco;
- expressing concern at the failure of the state and federal authorities to ensure an effective, prompt and impartial investigation into the rape, sexual violence, torture and ill-treatment reported by Bárbara Italia Méndez and other 25 women detainees;
- as rape can amount to torture, calling for the federal authorities to claim full jurisdiction in these cases in order to ensure that evidence gathered in line with international human rights standards is incorporated into the investigation;
- calling for a full, impartial and prompt investigation to ensure that all those responsible for involvement in the rape, sexual violence, torture and ill-treatment against Bárbara Italia Méndez and all detainees are brought to justice, including senior officials who failed to prevent these human rights violations or ensure timely investigations;
- calling for the effective implementation of the CNDH recommendations issued in October 2006 and the full reparation for Bárbara Italia Méndez and all the victims of human rights violations committed in Atenco, including the women who suffered sexual assaults;
- recognise the obligation of the authorities to guarantee public order and to strictly carry out any policing operation in accordance with international human rights standards, such as the UN Code of Conduct for Law Enforcement Officials.

Appeals to:

Governor of Mexico State: Lic. Enrique Peña Nieto, Gobernador del Estado de México, Palacio de Gobierno, 1º piso, Lerdo Poniente No. 300 Poniente, Col. Centro, Toluca 50000, Estado de México, MEXICO, **Fax:** (+52 722) 214 4172, **Email:** gob@gem.gob.mx, **Salutation:** Dear Governor/ Señor Gobernador

Public Prosecutor of Mexico State: Lic. Abel Villacaña Estrada, Procurador General de Justicia del Estado de México, Av. Morelos Oriente. No. 1300, Piso 6, Centro Estatal de Justicia, Col. San Sebastián, Toluca 50090, Estado de México, MÉXICO, **Fax:** +52 722 2153123, **Email:** abel.v.e@edomex.gob.mx, **Salutation:** Dear Prosecutor/ Señor Procurador

Minister of the Interior: Lic. Francisco Javier Ramírez Acuña, Secretario de Gobernación, Secretaría de Gobernación, Bucareli 99, 1er. piso, Col. Juárez, Del. Cuauhtémoc, México D.F., C.P.06600, MEXICO, **Fax:** (+52 55) 5093 3414, **E-mail:** frjramirez@segob.gob.mx, **Salutation:** Señor Secretario / Dear Minister

President of the National Human Rights Commission: Dr. José Luis Soberanes Fernández, Presidente de la Comisión Nacional de Derechos Humanos, Periférico Sur 3469, 5º piso, Col. San Jerónimo Lídice, México D.F. 10200, MÉXICO, **Fax:** (+52 55) 56 81 81 25, then dial 9, **E-mail:** correo@cndh.org.

6. PEDRO ALVARADO DELGADO



Pedro Alvarado Delgado© private

On the morning of 4 May 2006, **Pedro Alvarado Delgado**, a human rights defender with the non governmental human rights organization the Annunciation Human Rights Committee (*Sector Ajusco*) of the Pastoral Social Commission, was taking pictures and recording the police operation in San Salvador Atenco, Mexico State. As police entered the town at 6.30 am he was arbitrarily arrested without explanation. According to his testimony, despite protesting that he was a human rights observer, police responded “we are going to fuck you up with all your rights” (*te vamos a chingar a tu puta madre con todos tus derechos*). He was beaten round the head repeatedly and kicked to the floor where he was beaten again and threatened with death.

As with other detainees, he was handcuffed and forced to cover his head then made to lay face down one on top of the other for the five hour bus journey to the prison of “Santiaguito” near the state capital, Toluca. He was beaten, kicked and threatened and could hear police threatening to rape women detainees and the cries of pain of others around him.

In prison he was denied access to adequate medical attention and a defence lawyer of his choice. No reason was given for his arrest. On 5 May representatives of the National Human Rights Commission documented his physical injuries. On 8 May he made his judicial statement, however, the judge was absent from the court. On 10 May, in a mass hearing involving more than 200 detainees from Atenco, he was formally charged with attacking public roads and means of transport (*ataque a las vías de comunicación y medios de transporte*). The judge did not take into account either the evidence of ill treatment, torture or his statement that he had not committed any offence and had been carrying out legitimate human rights work. He was released on bail on 13 May pending prosecution.

As with virtually all those prosecuted as a result of the police operation in San Salvador Atenco, the evidence against Pedro Alvarado is the identical testimonies of several state police officers who list more than 100 names of those allegedly responsible for offences without providing any details of their alleged criminal activity.

In January 2007 Pedro Alvarado won a federal injunction (*amparo*) against his committal for trial in which the federal judge recognised the lack of evidence in the indictment and ordered the appropriate state court judge to identify the motives, time, circumstances, manner and place of the crime in a new indictment to demonstrate Pedro Alvarado’s probable responsibility. However, the State court has not so far taken the required action as the State Public Prosecutor’s Office has filed for an appeal (*recurso de revisión*) against the federal court ruling.

The federal injunction (*amparo*) did not however recognise the state court judge’s obligation to inform the State Public Prosecutor’s Office of evidence of torture suffered by Pedro Alvarado. The federal court ruled that the state courts are not compelled to inform prosecutors of the need to open an investigation, despite international human rights treaties requiring any authority to take steps to ensure allegations of torture are investigated. Amnesty International is not aware of any progress in bringing those responsible for his torture to justice or compensating him. At least one other human rights defender, Damian Camacho, was also ill-treated and prosecuted after being arbitrarily arrested while observing the police operation in San Salvador Atenco on 4 May 2006.

Background

On 3 and 4 May 2006, nearly 3000 municipal, state and federal police took part in operations against demonstrations led by a local peasant farmers organization, People’s Front in Defence of the Land (*Frente de Pueblos en Defensa de la Tierra, FPDT*) in Texcoco and San Salvador Atenco, Mexico State. The police operation resulted in the arrest of 207 people, the death of two civilians, scores of injured protesters and police, a number of police being held hostage temporarily and many detainees suffering torture, ill-treatment and sexual assault (see Amnesty International’s report *Mexico: Violence against women and justice denied in Mexico State*, AI index AMR 41/028/2006).

At the time of writing, more than 150 of the people detained during the protests are being prosecuted on charges of attacking public roads (*ataques a las vías de comunicación*), 24 of them are still in prison charged with the additional offence of kidnapping police officers. Judicial proceedings against the accused have been mired by irregularities and have consistently failed to meet international human rights standards including fair trial. On May 2007 three FPDT

leaders were each sentenced to 67 years in prison for allegedly kidnapping public officials in February and April 2006.

Of nearly 3000 federal, state and municipal police involved in the 3 and 4 May operations, only nine police officers have been disciplinary sanctioned, 20 Mexico state police officers are being prosecuted for the lesser offence of abuse of authority and one for libidinous acts (*actos libidinosos*).

In October 2006, the National Human Rights Commission (CNDH) issued recommendation 38/2006, calling for criminal investigations by state and federal authorities into widespread abuses committed during the police operation. However, the authorities have not implemented the recommendation effectively. In February 2007, the National Supreme Court (*Suprema Corte de Justicia de la Nación*) instructed a special judicial commission to investigate the abuses. Its findings are pending at the time of writing.

TAKE ACTION!

Write to Pedro Alvarado expressing your solidarity- c/o: Abogadas y abogados para la justicia y los derechos humanos, Amsterdam 124, Interior 703, Col. Hipódromo Condesa, México DF, CP 06170, MEXICO. (Please be polite and brief).

Write to the following Mexican authorities and the Mexican embassy in your country:

- express concern at the arbitrary detention, ill-treatment, torture and apparent unfounded prosecution of human rights defender Pedro Alvarado Delgado, on 4 May 2006 in San Salvador Atenco, Mexico State;
- calling for a full, prompt and impartial investigation into the abuses and human rights violations Pedro Alvarado Delgado suffered, for those responsible to be brought to justice and for him to receive adequate reparations;
- calling on the State Public Prosecutor's Office and judiciary to comply with the federal injunction (*amparo*) and provide solid evidence demonstrating Pedro Alvarado Delgado's probable responsibility for the alleged offence or end judicial proceedings against him immediately;
- reminding the authorities of their obligation to ensure that human rights defenders, community representatives and political opponents are not subject to unsubstantiated or fabricated criminal charges in relation to their legitimate activities and the exercise of fundamental freedoms;
- calling for the effective implementation of the CNDH recommendation 38/2006, ensuring reports of human rights violations in connection with the Texcoco and San Salvador Atenco police operations are investigated and for judicial proceedings against others detained during the police operation in San Salvador Atenco on 3 and 4 May 2006 to comply with international human rights standards, including the right to fair trial;
- recognise the obligation of the authorities to guarantee public order and to strictly carry out any policing operation in accordance with international human rights standards, such as the UN Code of Conduct for Law Enforcement Officials..

Appeals to:

Governor of Mexico State: Lic. Enrique Peña Nieto, Gobernador del Estado de México, Palacio de Gobierno, 1º piso, Lerdo Poniente No. 300 Poniente, Col. Centro, Toluca 50000, Estado de México, MEXICO, **Fax:** (+52 722) 214 4172
Email: gob@gem.gob.mx, **Salutation:** Dear Governor/ Señor Gobernador

Public Prosecutor of Mexico State: Lic. Abel Villacaña Estrada, Procurador General de Justicia del Estado de México, Av. Morelos Oriente. No. 1300, Piso 6, Centro Estatal de Justicia, Col. San Sebastián, Toluca 50090, Estado de México, MÉXICO, **Fax:** +52 722 2153123, **Email:** abel.v.e@edomex.gob.mx, **Salutation:** Dear Prosecutor/ Señor Procurador

Minister of the Interior: Lic. Francisco Javier Ramírez Acuña, Secretario de Gobernación, Secretaría de Gobernación, Bucareli 99, 1er. piso, Col. Juárez, Del. Cuauhtémoc, México D.F., C.P.06600, MEXICO, **Fax:** (+52 55) 5093 3414,
Email: frjramirez@segob.gob.mx, **Salutation:** Señor Secretario / Dear Minister

President of the National Human Rights Commission: Dr. José Luis Soberanes Fernández, Presidente de la Comisión Nacional de Derechos Humanos, Periférico Sur 3469, 5º piso, Col. San Jerónimo Lídice, México D.F. 10200, MÉXICO, **Fax:** (+52 55) 56 81 81 25, then dial 9, **Email:** correo@cndh.org

Please send copies to the **President of the Superior Court of Mexico State:** Magistrado José Carmen Castillo Ambriz, Presidente Tribunal Superior de Justicia del Estado de México, Nicolás Bravo Norte 201, Col. Centro, Toluca, C.P. 50000, Estado de México, MEXICO. **Fax:** (+52 722)215 21 64 **Email:** javr@pjedomex.gob.mx

7. RICARDO UCÁN CECA



Ricardo Ucán Ceca, © Equipo Indignación

Ricardo Ucán Ceca, a member of an indigenous Maya community², was arrested and subsequently sentenced to 22 years in prison for the murder on 5 June 2000 of a neighbour, Bernardino Chan Ek, in Akil, Yucatán State.

In his initial statement to the Yucatán State Public Prosecutor's Office (*Procuraduría General de Justicia del Estado de Yucatán*), Ricardo Ucán stated that he had killed his neighbour during a dispute over a plot of land. However, he also stated that he understood and spoke little Spanish and could not read or write. Nevertheless, he was not assigned an interpreter as is his right, severely restricting his understanding of the legal process as well as unfairly limiting his capacity to fully explain the circumstances in which he shot his neighbour. In addition, the public defender appointed to his case did not discernibly participate in the process, nor did she sign the record of his statement.

In the following days, when Ricardo Ucán made his first statement before a judge, he declared that he had shot his neighbour in self-defence who was also armed. However, his public defence lawyer made no effort to support his case. In addition, the judge failed to take into account the absence of the public defender's signature from the first statement (which was illegally amended in subsequent copies) and again, failed to provide an interpreter for the court hearing.

During the trial, Ricardo Ucan's initial statement to the public prosecutor was granted greater evidential value than his statement to the judge. The public defender failed to challenge this nor did she present evidence or argue that Ricardo Ucán had acted in self-defence. He was subsequently convicted of premeditated murder and sentenced to 22 years in prison.

In 2003 the Yucatán State Human Rights Commission concluded that Ricardo Ucán's right to adequate defence

² Yucatán State has a large indigenous Maya community whose members speak Maya.

and a translator had been violated and recommended an investigation. However, petitions filed to the State Superior Court and federal courts (*amparo*) against the sentence were subsequently rejected on the grounds that Ricardo Ucán did not inform the prosecutor or judge that he required an interpreter, that there was not sufficient evidence to prove his limited knowledge of Spanish, and that the judge and prosecutor spoke some Maya. Critically, the courts failed to place any burden on the judge or prosecutor to ensure that the defendant fully understood the judicial proceedings and ruled that the translator is for the benefit of the judge, not the defendant.

Despite recognizing that Ricardo Ucán spoke Maya and little Spanish, the appeal rulings also determined there was no evidence that Ricardo Ucán belonged to an indigenous community with "clearly specific customs" (*costumbres claramente especificadas*) and as a result there was no requirement to guarantee the right to an interpreter. This conclusion appears to rely on a restrictive interpretation of Article 2 of the Constitution, which describes indigenous communities as those with "own social, economic, cultural and political institutions" (*sus propias instituciones sociales, económicas, culturales y políticas*), a criterion chosen by the court in order to determine whether a defendant is indigenous and therefore eligible for an interpreter. As such, the judgement appears to undermine the right to an interpreter of any defendant who does not sufficiently understand or speak the language of the court.

Ricardo Ucán remains in prison. His conviction for premeditated murder and the failure of subsequent appeals appear to have been the result of discrimination, which frequently results in indigenous criminal suspects facing unfair trials and excessive sentences. The case has been filed with the Inter American Commission on Human Rights by a local human rights organization, *Equipo Indignación*, and the Yucatán State Human Rights Commission. The local human rights organization is also pressing the state government to introduce legislation to allow Ricardo Ucán to benefit from a pardon. In January 2007 the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples wrote to the authorities of Yucatán State expressing concern at the discrimination suffered by Ricardo Ucán and calling for legal measures to ensure his effective access to justice.

TAKE ACTION!

Write to Ricardo Ucán expressing your solidarity - c/o: Equipo Indignación A.C., Calle 17-A s/n entre 20 y 22. Chablekal, Mérida, Yucatán. (Please be polite and brief).

Write to the Mexican authorities and the Mexican embassy in your country:

- expressing concern at the violation of Ricardo Ucán's human rights, including the right to fair trial, the right to an interpreter and to adequate defence;
- urging the authorities to undertake and publish the results of a comprehensive review of Ricardo Ucán's prosecution and trial in line with international human rights standards, including the right to fair trial, adequate defence, an interpreter and the presumption of innocence without discrimination;
- calling for violations in fair trial and due process rights suffered by Ricardo Ucán to be corrected and for those responsible to be held to account;
- call on the authorities to enact and implement legislation to ensure Ricardo Ucán's right to a fair trial, a full review of his case and adequate reparations.

Appeals to:

Governor of Yucatán: Lic. Patricio José Patrón Laviada, Gobernador del Estado de Yucatán, Palacio de Gobierno, Calle 61, Col. Centro, Mérida 97000, Estado de Yucatán, MÉXICO, **Fax:** (+52 999) 930 3124, **Salutation:** Dear Governor/Señor Gobernador

Public Prosecutor of Yucatán: Lic. Armando Villarreal Guerra, Procurador del Estado de Yucatán, Km 46.5 Periférico Poniente, Polígono Susulá-Caucel, Tablaeje Catastral 20832, Mérida, Estado de Yucatán, MÉXICO, **Fax:** (+52 999) 9 30 32 67, **Salutation:** Dear Prosecutor/ Señor Procurador

Director of the National Commission for the Development of Indigenous Peoples: Luis H. Álvarez Álvarez, Director General de la Comisión Nacional Para El Desarrollo De Los Pueblos Indígenas, v. México-Coyoacán 343, Col. Xoco, Delegación Benito Juárez, México D.F., C.P. 03330, MEXICO, **Fax:** (+52 55) 5605 4361, **Email:** dirgral@cdi.gob.mx, **Salutation:** Dear Director General/ Señor Director General

President of the Congress of Yucatán State: Diputado Benito Fernando Rosel Issac, Presidente del Congreso del Estado de Yucatán, Calle 58 No 497 x 59. Centro. Mérida, Yucatán. C.P 97000, MEXICO, **Fax:** (+52 999) 923 23 11, **Email:** brosel@congresoyucatan.gob.mx, **Salutation:** Dear President/ Señor Presidente