

A man with a mustache is looking out through horizontal window blinds. The blinds are partially open, and the man's face is visible through the slats. The background is slightly blurred, showing an outdoor setting with some greenery.

SHIELDING THE GUILTY

MILITARY JUSTICE IN MEXICO

AMNESTY
INTERNATIONAL



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I AM GOING TO CARRY ON FIGHTING SO THAT THE SOLDIERS WHO ATTACKED ME PAY FOR WHAT THEY DID. I AM SAD BECAUSE IT HAS BEEN SEVEN YEARS SINCE I WAS ATTACKED AND I STILL DON'T HAVE JUSTICE. I AM ALONE AND FAR FROM MY FAMILY. AND ALTHOUGH I KNOW IT IS A LONG PROCESS, I AM GOING TO FIGHT UNTIL I GET JUSTICE AND WHEN I DO, I WILL RETURN TO MY VILLAGE AND SOW HIBISCUS TOGETHER WITH MY FAMILY.

”

Valentina Rosendo, January 2009

Right: Valentina Rosendo.

Front cover: An army roadblock in Guerrero state, Mexico, 2008. © Guillaume Herbaut (Institute) pour Amnesty International



Valentina Rosendo Cantú and Inés Fernández Ortega, two Indigenous women, were both raped by members of the Mexican military. Unable to get justice in Mexico, they took their cases to the Inter-American Court of Human Rights, which found in their favour in 2010. There is one of four cases in which the Inter-American Court has issued judgements against Mexico since November 2009 for gross human rights violations by members of the army in Guerrero state.

In all four cases, the judgements are a testament to the courage and determination of survivors who had been failed by the military justice system. However, their long fight for justice continues. No one has been brought to justice for the crimes committed

and the Mexican authorities have yet to implement the Inter-American Court judgements in full.

Amnesty International is campaigning alongside the survivors and their families to call on the Mexican authorities to immediately implement all measures ordered by the Inter-American Court in these emblematic judgements so that justice can finally be done.

Inés Fernández (*left*) and Valentina Rosendo.

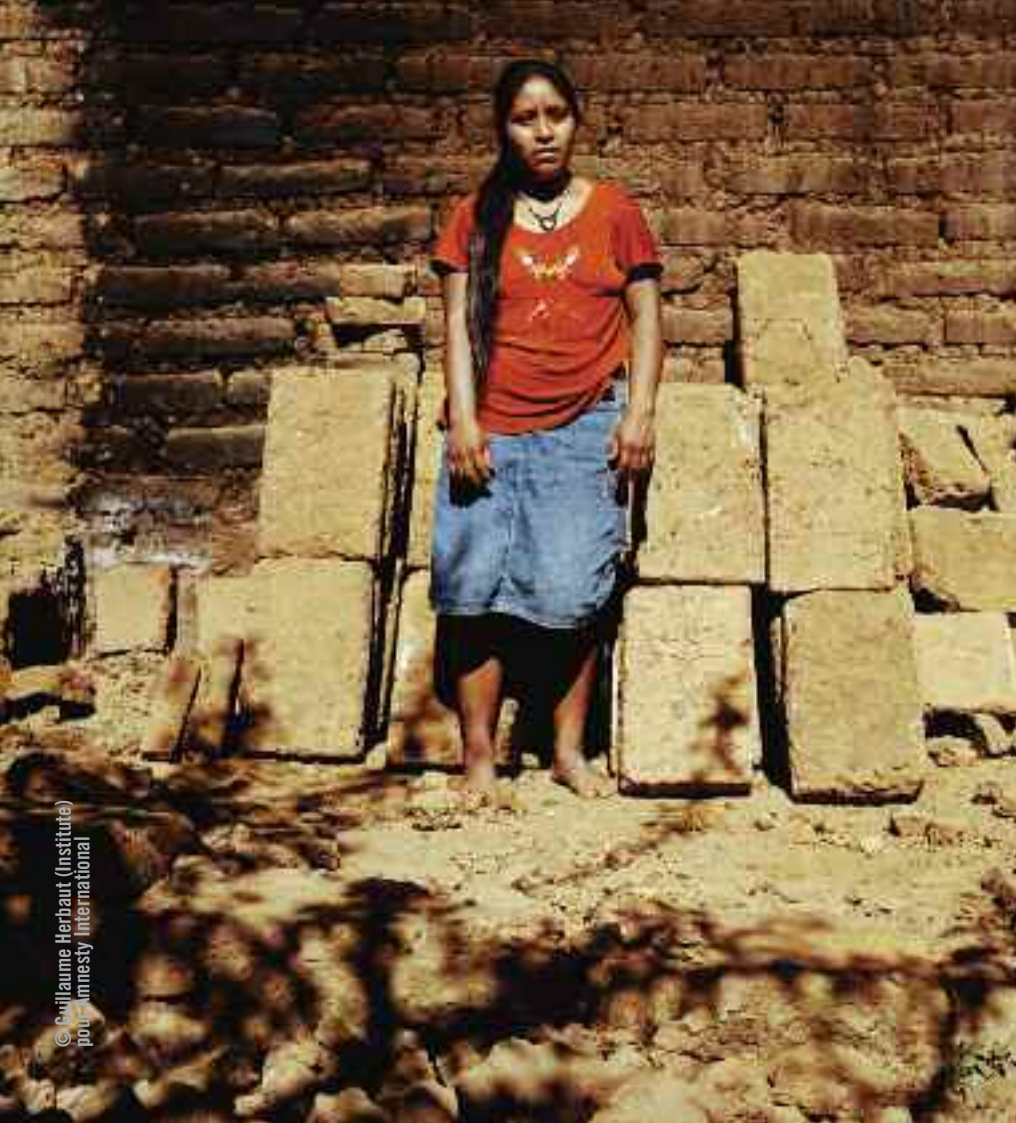
“

THE HARM THAT THE GOVERNMENT DID TO ME CAN NEVER BE REPAIRED, IT WILL BE PART OF MY LIFE FOREVER AND I WILL NEVER FORGET WHAT HAPPENED. THE GOVERNMENT NEVER BELIEVED ME AND IT ALWAYS SAID ‘YOU’RE A LIAR’. NOW I CAN SAY THAT THE GOVERNMENT IS THE ONE WHO IS LYING. I DEMAND JUSTICE. I DEMAND THAT THE GOVERNMENT ACCEPT PUBLICLY THAT IT WAS THE MILITARY WHO ABUSED ME.

”

Valentina Rosendo





“

I WANT TO TELL OTHER WOMEN TO FIGHT ABOUT WHAT HAS HAPPENED TO THEM. YOU ARE NOT ALONE. WE NEED TO SUPPORT EACH OTHER SO THAT WHAT HAPPENED TO US WILL NOT HAPPEN AGAIN TO OTHER WOMEN.

”

Inés Fernández, 2009

Inés Fernández in front of her home in Barranca Tecuani, Guerrero state.

MILITARY JUSTICE

In Mexico, investigating and trying military personnel accused of human rights violations is carried out under the jurisdiction of the military justice system. As a result, survivors of abuses by the military face multiple obstacles to justice. They have to overcome their understandable fear of reporting abuses by the military to the very body that committed the abuses in the first place. They are then confronted by a system that lacks independence and impartiality and has consistently failed to provide timely information on investigations. As the four cases outlined here demonstrate, the military justice system has failed to deliver justice to the victims or to hold the guilty to account. The result has been widespread impunity for human rights violations by the military.

In all four judgements, the Inter-American Court recognized the lack of impartiality of Mexico's military justice system and ordered that all cases of human rights violations be excluded from military courts. Specifically, it ordered the Mexican authorities to reform Article 57 of the Code of Military Justice which gives the military jurisdiction in all cases of crimes, including human rights violations, committed by military personnel on active service.

In October 2010 President Felipe Calderón presented a bill to the Mexican Senate proposing reforms to the Code of Military Justice. However, the reforms fall short of the changes ordered by the Inter-American Court. The bill deals solely with three human rights violations – rape, torture, and enforced disappearance – and leaves it up to the

military to decide whether one of these human rights violations has been committed and, therefore, whether a case should pass to civilian jurisdiction or not. As it stands, the proposal would have little or no impact on the application of military justice in Mexico.

The military justice system remains a barrier to justice in cases of human rights violations. The armed forces have been deployed in their tens of thousands in policing operations against criminal gangs since President Calderón took office at the end of 2006. The National Human Rights Commission recorded more than 1,600 complaints of abuses by members of the armed forces in 2010. Amnesty International is only aware of one conviction of a military official for human rights abuses committed during President Calderón's term of office.

Right: Tita Radilla, daughter of Rosendo Radilla.
Below: Rosendo Radilla's children, Mexico, August 2007.

ROSENDO RADILLA PACHECO

Rosendo Radilla Pacheco's family has been campaigning for more than three decades to break down the wall of silence surrounding his enforced disappearance. The 60-year-old social activist and former Mayor of Atoyac de Álvarez Municipality was illegally detained on 25 August 1974 at a military checkpoint. His detention was never officially recorded and he was never brought before a judge. Witnesses reported that he was tortured in detention. He was last seen at Atoyac's military barracks a few days after his detention.

Tita Radilla Martínez has taken every possible step to find out the truth about what happened to her father and to ensure that those responsible are brought to justice. She is continuing her fight despite efforts to frighten her into silence.

Failed by the Mexican authorities, Tita Radilla took her case to the Inter-American human rights system in 2001. On 23 November 2009, the Inter-American Court found Mexico guilty of the enforced disappearance of her father. This judgement

established the responsibility of the Mexican state for the violation of Rosendo Radilla's rights to life, liberty and personal integrity.

The Court ordered the Mexican authorities to establish truth and justice for Rosendo Radilla and his family, to redress the violation, and to ensure the case was transferred to the civilian authorities for full and impartial investigation. The Mexican government announced that it would comply with the rulings, but it has so far failed to do so. In January 2001, more than a year after



the judgement was issued, human rights lawyers representing the family of Rosendo Radilla reported that the government had complied in full with only one of the 18 requirements issued by the Inter-American Court. The case remains under the military jurisdiction.

“

THEY SAY ‘DON’T REOPEN THE WOUND’. RE-OPEN? THE WOUND IS OPEN – IT NEVER HEALED.’

”

Tita Radilla, daughter of Rosenda Radilla, 2009



INÉS FERNÁNDEZ AND VALENTINA ROSENDO

Valentina Rosendo was 17 years old when eight members of the army surrounded her as she was washing clothes in a stream near her home in the community of Barranca Bejuco. When she told them she did not have the information they wanted, two of the soldiers raped her while the others looked on.

One month later, on 22 March 2002, eleven soldiers arrived at Inés Fernández' house in the nearby community of Barranca Tecuani. Three of the soldiers investigating the alleged theft of some meat went into her kitchen where she was cooking for her four children. One soldier pushed her to the floor and raped her while the other two watched.

"They told me that I should go myself and talk to the military justice officials. I was scared, really scared. How was I supposed to go and talk to them when it was the military themselves who were looking for me?"

Valentina Rosendo

Inés Fernández and Valentina Rosendo reported the attacks to the authorities, but so far no one has been brought to justice. Instead of taking steps to carry out full and impartial investigations, the military investigators tried to refute the allegations, placing the burden of proof on the women themselves and refusing to accept evidence of rape. During their fight for justice, Inés Fernández, Valentina Rosendo and their families have been the targets of intimidation. Threats against them have

escalated since they appealed to the Inter-American human rights system.

The Inter-American Court ruled in favour of the two women on 30 and 31 August 2010. The Court ordered the Mexican government to ensure a prompt, swift and impartial investigation by civilian institutions into the crimes and to provide remedy and reparation to the victims. However, several months after the judgement was issued, the cases remained under the military jurisdiction. In February 2011, the Mexican authorities cancelled a scheduled meeting with Inés Fernández and Valentina Rosendo and their legal representatives to discuss implementation of the Inter-American Court rulings, calling into question the willingness of the authorities to comply with the judgement.

Inés Fernández (*left*) and Otilia Eugenio Manuel speaking at a conference at the Mexico City Human Rights Commission, March 2010.



TEODORO CABRERA AND RODOLFO MONTIEL

Teodoro Cabrera García and Rodolfo Montiel Flores, peasant farmers from the community of Pizotla, Ajuchitlán del Progreso municipality, were detained by soldiers in May 1999. Both men are environmental activists who have campaigned to protect forests in the region. They were held in military custody for several days before being brought before a judge and charged with possessing arms and drug cultivation. While in detention they were tortured to force them to sign confessions.

“One soldier stood on my stomach and supported himself on my shoulders

and jumped up and down. Meanwhile another one pulled my trousers down and pulled my testicles. After this they poured water over my right thigh and gave me electric shocks”.

Rodolfo Montiel’s testimony before the Inter-American Commission on Human Rights, October 2006

Teodoro Cabrera and Rodolfo Montiel were convicted in August 2000 on the basis of fabricated evidence and sentenced to lengthy prison terms. Following much national and international pressure, President Fox ordered their release on health grounds and they were released in November 2001. However, their innocence was never acknowledged and no one has ever been held to account for their torture, despite medical and other evidence.

After their release, Rodolfo Montiel and Teodoro Cabrera were forced to leave their communities and the forests they had campaigned so hard to protect because of the lack of protection offered by the state. Rodolfo Montiel was forced to seek refuge abroad and has been separated from his wife and children ever since.

Their case was eventually admitted to the Inter-American human rights system and on 20 December 2010, the Inter-American Court found in their favour, ordering the Mexican authorities to transfer the case to civilian jurisdiction and provide reparations to the victims.



CORTE
INTERAMERICANA
DE
DERECHOS HUMANOS



“

**I HOPE THE GOVERNMENT
RECOGNIZES WHAT IT HAS
DONE. FOR ME THAT WOULD
BE JUSTICE. NOTHING WILL
EVER BE ABLE TO REPAIR
THE DAMAGE... I HOPE ONE
DAY WE CAN WALK FREELY. I
HOPE MY KIDS ARE ABLE TO
SEE THEIR FATHER AGAIN
AND THAT WE CAN ALL BE
TOGETHER AGAIN.**

”

Ubalda Cortés Salgado, Rodolfo Montiel's wife, 2010

Rodolfo Montiel and his wife, Ubalda Cortés Salgado,
at the Inter-American Court of Human Rights in
Costa Rica.

In each of the four cases, the judgements by the Inter-American Court clearly acknowledged that human rights violations had been committed by Mexico's armed forces and that the military justice system had systematically failed to ensure prompt, impartial and full investigations, resulting in impunity for those responsible.

Mexico is a party to the American Convention on Human Rights and has recognized the jurisdiction of the Inter-American Court. It is, therefore, legally obliged to implement fully the terms of the Court's judgements. These judgements are not open to appeal and are binding. They also provide an opportunity for the Mexican authorities to demonstrate clearly that members of the military who commit crimes are not beyond the reach of

the law. So far, the Mexican government has formally accepted the judgements and made public commitments to comply. But in practice it has yet to implement most of the measures ordered by the Court.

Survivors and their families have a right to truth, justice and reparations – rights that have so far been denied them by the Mexican authorities. Full implementation of the Inter-American Court judgements is vital to ensure that these rights are respected and that members of the military can no longer commit human rights abuses with impunity. The Mexican authorities must act urgently to end military jurisdiction over such cases, and implement in full the judgements of the Inter-American Court.

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MILITARY JURISDICTION SHOULD END BECAUSE... THE MILITARY WON'T INVESTIGATE THEMSELVES AS OTHERS COULD DO. SOLDIERS ARE LIKE CHILDREN BELONGING TO THE SAME FAMILY, IF THEY COMMIT A VIOLATION OR A CRIME, ALL THEY DO IS MOVE THEM SOMEWHERE ELSE WHERE THEY JUST CONTINUE COMMITTING THEIR ATROCITIES. ”

Rodolfo Montiel, 2010

TAKE ACTION NOW

Write to the President of Mexico:

- Remind him that Mexico has an obligation to comply in full with all the judgements of the Inter-American Court of Human Rights issued against Mexico since November 2009;
- Stress that full compliance would send a clear message to survivors and relatives, as well as the wider public, of the government's determination to uphold their rights and ensure access to justice;
- Call on him to reform the Code of Military Justice in accordance with the clear requirements of the Inter-American Court of Human Rights so that all allegations of human rights violations

by members of the armed forces are investigated, prosecuted and tried by civilian judicial authorities.

Please send appeals to:

President of the Republic
Lic. Felipe de Jesús Calderón Hinojosa
Presidente Constitucional de los Estados Unidos Mexicanos
Residencia Oficial de “Los Pinos”, Casa Miguel Alemán
Col. San Miguel Chapultepec
Mexico D.F., C.P. 11850
Mexico
Fax: (+ 52 55) 5093-4901
Email: felipe.calderon@presidencia.gob.mx
Salutation: Señor Presidente / Dear Mr President

**AMNESTY
INTERNATIONAL**



Amnesty International is a global movement of more than 3 million supporters, members and activists 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 and are funded mainly by our membership and public donations.

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English

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