

Cover photograph: Relatives of two of the 17 peasants massacred by the Mexican Army in Guerrero on 28 June 1995, grieve over their bodies.© AI.

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MEXICO

Human rights violations in Mexico: A challenge for the nineties

INTRODUCTION

For more than two decades, Amnesty International has monitored with growing concern a long-lasting and continuing pattern of gross human rights violations affecting wide sectors of the population of Mexico.

Despite the adoption in recent years of administrative measures for the protection and observance of fundamental human rights -- in particular the right to life and the right to fair trial for every member of the population -- gross human rights violations continue to be reported on an alarming scale. Cases such as the massacre of 17 unarmed peasants by the police on 28 June 1995 in Guerrero, and the continuing and widespread practice of torture of detainees, illustrate the fact that the legal and administrative developments have been ineffective in stopping violations by government officials.

Among Mexico's population of more than 91 million, the underprivileged, particularly indigenous peasants, continue to be the most frequent victims of human rights violations. However, evidence suggests that all citizens, including judges, bishops, politicians, journalists, and even children, are at risk. While the recent events in the state of Chiapas have highlighted some of these violations, Amnesty International is concerned about their prevalence throughout the country, including Mexico City.

In the past few years, the organization has sent several delegations to Mexico to observe and analyze the human rights situation and discuss its concerns with the authorities. It has sought to verify the accuracy and truth of the information gathered, listening to all parties involved. Some of the missions have included professionals who are specialists in the scientific documentation of human rights violations. The most recent visit took place between 1 January and 13 January 1995, when a delegation visited Mexico City and the state of Chiapas. Some of its findings are included in this report.

Amnesty International has called on the government of Mexico's President, Ernesto Zedillo Ponce de León, to recognize the urgent need to improve the protection of human rights, asking for prompt and effective implementation of the recommendations in this report.

IMPUNITY

Despite repeated statements to the contrary by the Mexican Government, impunity for perpetrators of gross human rights violations continues to prevail. Even highly publicized cases of serious human rights violations which triggered widespread public outcry have remained unresolved. A case in point is the extrajudicial execution of Norma Corona Sapién, president of the *Comisión para la Defensa de los Derechos Humanos en Sinaloa*, Commission for the Defence of Human Rights of Sinaloa, in Culiacán, Sinaloa in May 1990. Judicial proceedings brought against a former commander of the *Policía Judicial Federal*, federal judicial police, and other officials in connection with this have been marred by irregularities, including the torture of some of the detainees to extract confessions of guilt. This has

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raised well-founded suspicions that they may have been used as scapegoats for the unresolved murder of the human rights defender.

Court sentences punishing those responsible for human rights violations hardly exist in Mexico. Officials accused of torture and ill-treatment, or other gross human rights violations, are frequently transferred or even promoted to other jurisdictions or departments - a fact acknowledged by government officials.

For example, in October 1990, a top drug-enforcement official who had been repeatedly accused of acquiescing to gross human rights violations perpetrated by the force under his command, was relieved of his post following growing public outcry. However, he was never prosecuted for any of the violations carried out by those under his direct command; instead, he was promoted to another governmental office. According to information disclosed in 1994 during trials held in the United States against prominent members of drug cartels operating in Mexico, while in charge of anti-narcotics operations, the former official had reportedly received substantial pay-offs. While Amnesty International cannot comment on the accuracy of such accusations of corruption, the organization is gravely concerned that this official has never been made accountable for the serious pattern of past human rights violations by those under his responsibility.

Other high-level police officials who have benefitted from impunity include a former commander of the *Policía Judicial del Estado*, state judicial police, in Baja California Norte, who was reportedly responsible for gross human rights violations, including torture, while in active duty in the late 1980s. However, he was never brought to justice. He later resigned his post, but in 1994 was appointed to take charge of security for a political rally held on 23 March 1994, in Tijuana, Baja California Norte, during which Luis Donaldo Colosio, the Presidential candidate for the ruling *Partido Revolucionario Institucional* (PRI), the Institutional Revolutionary Party, was murdered. Although the main culprit of the presidential candidate's murder was arrested on the spot, the crime has not been fully solved and many questions regarding the motivations and responsibilities behind the killing remained unanswered as of September 1995. The former state judicial police commander was arrested for a short period after Colosio's murder under suspicion of involvement in the killing, but was released free of charge after the police files on his case were stolen, and the detective in charge of the investigation was killed in April 1994, by unidentified gunmen. As of September 1995 the former police commander continued to benefit from impunity for his reported involvement in past human rights violations.

The consequences of the denial of the right to justice for victims of basic human rights violations are well illustrated in the case of the state of Chiapas. For decades Amnesty International has documented serious human rights violations by state agents there. Those responsible have rarely been brought to justice, and the impunity granted to the perpetrators has prompted continuing abuses. As acknowledged by some government officials, this has further curtailed the rights of the victims, most of whom are Indian peasants, forcing sectors of an otherwise peaceful local population to resort to violent means to demand the respect of their Constitutional rights.

Amnesty International has noted that some of those responsible for the June 1995 execution of 17 peasants in Guerrero, including two police commanders, were remanded in custody shortly after the incident, pending trial, and that the governmental *Comisión Nacional de Derechos Humanos* (CNDH), the National Human Rights Commission, carried out an extensive investigation into the case. The CNDH's

findings were published on 14 August 1995 in a 360-page report, which revealed evidence of official responsibility for the killings, and documented serious irregularities in the initial investigations carried out by the state criminal justice system in a bid to avoid prosecution of those responsible. These included: fabrication of evidence, such as the planting of firearms at the crime scene in order to support official claims of an armed confrontation, and the falsification of forensic reports. At least eight high state government officials were suspended from duty following the publication of the report.

While Amnesty International welcomes the steps adopted by some authorities to investigate the Guerrero massacre, the organization has noted with concern that, by September 1995, the relatives of the victims of the massacre had not received compensation, and that a significant number of those reportedly responsible for masterminding the killings had not been brought to justice. In September 1995 the CNDH reported that its recommendations on the case had not been fully implemented.

Amnesty International believes that only a firm political decision by the Mexican Government to eliminate impunity will make it possible to eradicate the long-lasting practice of torture and other human rights violations, and to restore the full protection of human rights of all sectors of the Mexican population.

THE ADMINISTRATION OF JUSTICE

Amnesty International has repeatedly expressed its concerns about serious human rights violations in the administration of criminal justice in Mexico. Serious irregularities and deficiencies in the criminal justice system and law-enforcement agencies appear to facilitate a pattern of abuse by members of the criminal justice system, particularly the police. This is fuelled by the continuing lack of full independence of the administration of justice, including the judiciary, from the government and the ruling PRI.¹

The public ministry

Prosecutions in Mexico are carried out by the *Ministerio Público*, public ministry. The *Procuraduría General de Justicia de la República*, the Republic Attorney General's Office, a branch of the executive power, is the ultimate supervisory body of all federal offices of the public ministry, as are the Federal District General Attorney and each of the country's 31 state attorney generals responsible for the public ministry under their jurisdiction. Under the Mexican Constitution, the public ministry is the local prosecutor's office in charge of implementing the attorney general's duties. The public Ministry in Mexico is in charge of the initial stages of criminal proceedings, including police investigations. The federal and state judicial police forces, most frequently cited in reports of human rights violations, are an auxiliary body of the public ministry and operate under its direction, although other police forces, including traffic police, may be called by this office to assist in criminal proceedings.

The public ministry is responsible, among other things, for opening criminal investigations, gathering

¹ For further detailed information about the existing Mexican legal and administrative structures relevant to human rights in that country please see **Mexico: Torture with impunity** (AMR 41/04/91), and **Mexico: The persistence of torture and impunity** (AMR 41/01/93).
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evidence, including witnesses' accounts and confessions, carrying out arrests, and deciding on the appropriateness of pursuing court proceedings. In fact, the public ministry alone holds the power to investigate and prosecute crimes under its jurisdiction, and for requesting the imposition of sentences by the courts. Following reforms adopted by President Carlos Salinas de Gortari's administration in 1993, the agency has almost discretionary powers to carry out arrests without court orders, and may hold detainees for up to 96 hours before presentation to court, a period during which the legal prohibition of incommunicado detention as established by Mexican law is frequently flouted.

The state is not obliged to provide detainees with any legal counsel from the time they are arrested until they appear before the judge. Thus, those who cannot afford the high costs of a private lawyer are left without legal defence during the stage of criminal proceedings when human rights violations, including the extraction of coerced confessions to substantiate charges, are most likely to occur. In August 1995 the *Comisión Estatal de Derechos Humanos de Morelos*, Morelos State Human Rights Commission, reported on the extensive use of torture by members of the state judicial police. Amnesty International believes that a similar situation exists throughout the country. The Morelos State Attorney acknowledged that torture is practised by the state police, although he claimed this is not used as extensively as reported.

The public ministry is also responsible for ensuring criminal proceedings are conducted in accordance with the law, as well as investigating and prosecuting abuses within the criminal justice system, such as torture of detainees. However, it has consistently failed to stop the large number of human rights violations reported during criminal investigations under its responsibility, particularly arbitrary detention and torture. Forensic examinations of complainants, which are carried out by medical examiners under instruction of the public ministry, consistently fail to document injuries which might substantiate charges against those responsible.

A similar pattern has been reported in cases of extrajudicial executions and deaths in custody, where inadequate autopsies carried out by the medical service of the public ministry have supported the police version of events. For example, initial forensic examinations carried out in the case of 17 peasants massacred by the police in the state of Guerrero on 28 June 1995, failed to document injuries consistent with extrajudicial executions. The reports were purposefully flouted to favour the state authorities' claims that they had died in a shoot-out.

Shortly after coming to power in December 1994, President Ernesto Zedillo Ponce de León's administration adopted some political and administrative steps towards reforming the Republic Attorney General's Office, including the appointment of a member of an opposition party to head the agency, and the creation of a new prosecutor's office to guard against abuse by the corporation. In September 1995 the effectiveness of these welcomed initiatives purported to end violations remains to be seen. Meanwhile, Amnesty International continues to receive reports of human rights violations which appear to indicate that more radical reforms may be necessary, together with a strong political will, to put an effective end to continuing human rights violations.

Hopes for the reform of the Republic Attorney General's Office's structure were marred following statements by its director, Antonio Lozano Gracia, on 20 September 1995. While announcing an increase in the national budget for law enforcement and an administrative reorganization of the bureaucratic agency, he said his office was not ready to carry out a purge of corrupt officials and promised to be

"extremely respectful" of the rights of officers accused of crimes.

The judiciary

Amnesty International notes with concern that Mexican courts continue to accept confessions, often extracted under duress, as main evidence for sentencing. While coerced confessions are not technically admissible in court, Amnesty International has documented scores of cases in which such confessions have been admitted as evidence, even in cases when the torture and ill-treatment suffered by defendants were documented by independent medical examiners.

The organization is extremely concerned about the prevailing practice, as observed in the Mexican jurisprudence, which gives prevalence to evidence based on a defendant's initial confessions before the public ministry, rather than a judge. As explained above, the public ministry, which has a vested interest in convicting the accused, is not structured to ensure fair and impartial hearings of defendants.

In the past, the *Suprema Corte de Justicia*, Supreme Court of Justice, has ruled that once a confession has been given, the onus is on the defendant to prove that it was illegally obtained if it is to be ruled out of evidence. However, medical proof of torture produced by defendants has routinely been dismissed by the courts. This seriously undermines guarantees and rights of victims enshrined in the Mexican Constitution and in human rights instruments adopted by Mexico, including the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Under the UN Convention against Torture, Mexico is obliged to investigate thoroughly all allegations of torture presented by defendants, and to dismiss from court any confession obtained under torture, except when submitted as evidence of the crime of torture.

The lack of access to a fair and prompt trial in Mexico is mostly prevalent and particularly serious for defendants belonging to poorer and inarticulate sectors of the population, especially indigenous people.

An extreme example of abuse and denial of justice against the indigenous people was documented by an Amnesty International delegation which visited the *Reclusorio Preventivo Norte*, a remand centre in Mexico City, in January 1995. Diego and Claudio Martínez Villanueva, both of whom are Otomí Indians, had been remanded in custody awaiting trial on charges of murder based on confessions. Both brothers are deaf-mute, mentally handicapped, and illiterate. They were arbitrarily arrested in Santa Ana Tlacotenco, in the state of Mexico, in January 1994, by members of the *policía judicial del estado*, state judicial police, and forced to stamp their fingerprints on fabricated statements of guilt. According to reports, both were beaten and tortured with electric shocks to the tongue while in police custody. They were transferred to the remand centre days later, and saw a judge for the first time on 11 March 1994. In that same month the courts ordered their release, but the decision was only made effective in March 1995, following a growing outcry about their case from local human rights organizations. While in remand, both suffered frequent abuse, including beatings. They were on no occasion offered any medical care or rehabilitation, and by September 1995 they had not received compensation for their ordeal.

Although the state is supposed to offer the assistance of official defence lawyers from the moment a defendant is presented before a judge, their availability and resources are seriously limited and they

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reportedly lack the necessary independence to ensure an impartial defence. Additionally, the professionalism and competence of such lawyers have been repeatedly questioned by independent monitors in Mexico. Poor defendants effectively lack any legal assistance during their detention and trial.

Despite legislative reforms adopted by the President Salinas' administration to provide interpreters for defendants, most non-Spanish speaking indigenous people continue to lack the mandatory assistance of an interpreter throughout the proceedings.

Resourceless defendants awaiting trial under state criminal courts are also particularly affected by delays in trial proceedings, which are frequent in the Mexican criminal justice system, despite stipulations that these should not exceed one year.

Unfair trial proceedings also frequently affect people believed by the authorities to pose a threat to the political status quo. Amnesty International has documented scores of cases of unfair trials in Mexico, including prisoners of conscience, which illustrate the frequent control of the judiciary by the government and ruling party.

The lack of independence of the judiciary was recently highlighted by the case of Judge Abraham Polo Uscanga, a member of the *Suprema Corte de Justicia del Distrito Federal (SCJDF)*, Supreme Court of Justice of the Federal District, who was targeted for his outspoken criticism against this problem.

Dr. Polo Uscanga had been cautioned in January 1994 following his decision to release eight people who had been falsely accused of terrorism in Mexico City, some of whom had been tortured to extract false confessions. On 23 March 1995 Dr. Polo Uscanga refused to issue arrest warrants against leaders of *Sindicato Único de Trabajadores de Auto-transporte Urbano - Ruta 100 (SUTAU-100)*, an independent bus drivers' and mechanics' union of Mexico City's public transport, on reportedly unfounded fraud charges filed in 1991. The union had recently carried out industrial action against government plans to privatize transport, and the authorities are believed to have targeted its leaders to prevent further actions.

Dr. Polo Uscanga was reportedly threatened by the head of the SCJDF to change his verdict in order to arrest the SUTAU-100 activists, as a result of which he resigned from his post on 1 April 1995. He was substituted by a judge who shortly afterwards issued arrest warrants against SUTAU-100 union leaders. Adalberto Loza Gutiérrez, Filemón Ponce Cerón, Eduardo Hernández Quiroz, Cristóbal Flores de la Huerta, Octaviano Sánchez Palma and Ricardo Barco, the union's legal adviser, were arrested on 8 April. On 13 June, six other SUTAU-100 union activists were arrested: Gabino Camacho, Ernesto Ávila, Eduardo Jáuregui, Marcos del Razo, Jorge Núñez and Hilario Carabantes. By September 1995 all 12 were still being held in remand, in lieu of a US \$1.5 million bail. Amnesty International is calling for their immediate and unconditional release. In September 1995, arrest warrants against other leaders, including Felipe Venancio Gil, SUTAU-100's Secretary General, were still pending.

The attacks against Dr Polo Uscanga continued after his resignation. On the evening of 27 April, he was abducted from a street in Mexico City by unidentified armed men. He was reportedly forced into a vehicle, blindfolded, and driven to a rubbish dump, where he was beaten and slashed with a knife in the legs and stomach. He was reportedly interrogated about his political affiliation, and about why he had made public his complaints against the chief justice of the SCJDF. He was then threatened not to make

further complaints and released. As a result of the attack, Dr. Polo Uscanga needed hospital care. A forensic doctor confirmed injuries consistent with the reported attack.

Despite the threats, Dr. Polo Uscanga made public his case, and reportedly received further anonymous threats and attacks. On 10 May he was nearly run over by a vehicle without plates while crossing a street in Mexico City. Weeks later, Dr. Polo Uscanga publicly accused the head of the SCJDF of masterminding the threats and attacks against him.

On the evening of 19 June Dr. Polo Uscanga's relatives reported that he had gone missing. His body, bearing a single gunshot wound to the back of the head, was discovered on 20 June in his office. Although the authorities initially suggested he had committed suicide, further investigations proved he was murdered. Those responsible have not been brought to justice.

The head of the SCJDF resigned weeks after Dr. Polo Uscanga's murder, but the victim's allegations of his involvement in the attacks were never investigated. In September 1995, the independent union leaders whom Dr. Polo Uscanga believed should have been released in accordance with the law, were still in prison. The official project to privatize Mexico City's public bus transport has continued unabated, and, by September, SUTAU-100's members, who number more than 10,000, had not received their salaries since the arrest of their leaders.

The use of torture

Amnesty International has interviewed scores of people in Mexico who have suffered serious torture in attempts to force confessions from them, sometimes leaving lasting marks on their bodies. Many of these people were medically examined by forensic experts during Amnesty International's visits to detention centres and prisons. The organization is convinced that a significant number of inmates in Mexican remand centres and prisons have been forced to confess to the charges brought against them and that they are either innocent victims of the authorities' need to bolster the number of apparently resolved crimes, or outright victims of political repression.

For example, Félix Armando Fernández Estrada and Demetrio Ernesto Hernández Rojas were arrested in Mexico City on 20 October 1994 and brutally tortured to extract confessions from them by members of the *Policía Judicial del Distrito Federal* (PJDF), Federal District Judicial Police. They were forced to confess to involvement in a bomb attack in the city centre in January 1994. Their arrest was ordered by a public ministry officer in the Federal District, without approval of a court, and the torture reportedly took place in a secret detention centre. They remained "disappeared" until the next day, when they were transferred to an official detention centre.

The torture which Félix Armando Fernández Estrada and Demetrio Ernesto Hernández Rojas suffered included long periods of electric shocks, semi-asphyxiation, beatings, and threats that they and their relatives would "disappear" or be killed. The men were held in the *Reclusorio Preventivo Norte*, awaiting trial. Amnesty International and other human rights organizations called for their immediate and unconditional release, but they remained in detention until early 1995, when they were released free of charge.

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Félix Armando Fernández Estrada and Demetrio Ernesto Hernández Rojas had previously been arrested and tortured for their political activities in 1984, and held in detention on false charges for a number of months. Their cases were included in a 1985 Amnesty International action on their behalf, expressing serious concern about the torture and ill-treatment suffered in the days following their arrest (See *Delays in Trial Proceedings against 12 young people detained in Mexico City*, AI Index: AMR 41/08/85, published on 29 May 1985).

In January 1995 an Amnesty International delegation visited the *Reclusorio Preventivo Norte*. Two doctors from the organization, including Professor Jorgen L. Thomsen, a Danish forensic pathologist, widely renowned for his experience in the documentation of torture, interviewed and examined both detainees.

Félix Armando Fernández Estrada, age 38, a tradesman and political activist, had been arrested in the street on 20 October 1994 while taking his two-year-old nephew to a nursery. The three armed men who arrested him were wearing civilian clothes and showed no arrest warrant or any identification, although they were later reportedly identified as members of the PJDF. They snatched the young child from his hands and pushed Félix Armando Fernández towards a vehicle that had no number plates. The child was left in the street.

The men cover Félix Armando Fernández's head, pushed him into the vehicle and took him to an unknown destination. During the journey he was repeatedly beaten. He was then undressed, tape was placed over his eyes, and he was tied up and forced to the ground, where he was kicked, punched and dragged by the testicles across the floor.

The interrogators asked him if he belonged to the *Partido Revolucionario Obrero Clandestino Unión del Pueblo* (PROCUP), the Revolutionary Workers' Clandestine Union of the People Party, an armed opposition group. They accused him of responsibility for a number of bomb attacks in Mexico City, in particular an explosion on 8 January 1994 in the centre of the city in which five people were slightly injured.

The torture intensified. A polyurethane bag was put over his head as he lay on the ground and carbonated water was forced up his nose.

One group of people involved in his torture were relatively lenient, asking him to talk about his involvement with PROCUP and offering to get him out of the country. Another group were far more brutal, threatening to abduct and torture other members of his family. They also claimed that they had detained his young nephew and that they had tortured him by burning his anus with a soldering iron.

At one point, Félix Armando Fernández lost consciousness as a result of having a plastic bag put over his head. He was also tortured with electric shocks.

Towards the end of the day, a group of officials arrived and Félix Armando Fernández was made to sign a declaration after being warned that if he did not do so he would be killed. They also threatened to torture and kill members of his family.

Félix Armando Fernández was then made to get dressed and was transferred blindfolded into a vehicle. The blindfold was then removed and he was forced to get out of the vehicle and stand against a tree. A minute later a vehicle belonging to the PJDF arrived and he was taken to a police station where he was charged with carrying a machine gun and taken to a cell. He remained there until late on 21 October 1994, when he was transferred to the main headquarters of the PJDF. From there he was transferred to the *Reclusorio Preventivo Norte*.

During his detention he was denied access to a lawyer or to a representative of the public ministry. On the afternoon of 21 October, he was examined by a doctor of the Attorney General's office but was denied medical treatment. Later, on arrival at the prison, a prison doctor performed a superficial examination but Félix Armando Fernández was never offered medical assistance, in spite of his request for help.

Demetrio Ernesto Hernández Rojas, 34, an independent union activist and employee of the *Universidad Autónoma Metropolitana* (UAM), the Autonomous Metropolitan University, was arrested at 3.30pm on 20 October 1994. About 10 armed men in civilian clothes stopped him in the street, handcuffed him, beat him, hooded him and forced him into a vehicle belonging to the PJDF. He was driven to an unknown destination.

He was suspended naked from the ceiling by his thumbs and beaten with sharp objects. He was then taken down and dragged across the room by his testicles and told that they were going to castrate him. His torturers wet his body, attached wires to his big toes and gave him electric shocks. He was given electric shocks to his shins, knees, testicles, penis, belly-button, nipples, the backs of his hands, his tongue, his gums and teeth, his elbows, his forehead, inside his ears and nose and his neck. Demetrio Ernesto Hernández was then questioned about his supposed political activities with PROCUP and death threats were proffered against him and his family.

His torturers also put a nylon bag over his head and punched him in the stomach; they forced water with chili up his nose and filled his mouth with water before punching him in the stomach to make him vomit the water. He was also subjected to "*el pozo*" whereby the victim's head is forced under water (in this case a toilet bowl); and to "*platillazos*" whereby the victim is beaten on both ears. As a result of this treatment, Demetrio Hernández lost consciousness about four times.

At about 3am on 21 October Demetrio Hernández reportedly collapsed. He was dressed and taken to an office where he was examined by an official, allegedly a health professional. After recovering consciousness, Demetrio noted that he could not move half of his body. The blindfolds he had been wearing were removed and he was photographed.

Towards the end of the ordeal, he was made to sign some papers. The men also threatened to rape his wife, who, they lied to him, was in detention. He was never told what he had been accused of.

He was finally transferred to a cell in the Federal District Attorney General's headquarters, where he remained in detention for a further 12 to 14 hours. He was examined by a doctor but was denied medical care.

During the night of 21 October Demetrio Ernesto Hernández and Félix Armando Fernández were transferred to the *Reclusorio Preventivo Norte*. On arriving at the remand centre, Demetrio Ernesto Hernández was given a superficial medical examination, but was again denied any medical care.

On 22 October Demetrio Hernández Rojas and Félix Fernández Estrada were presented before a judge to give their statements to court. This was the first time they heard the charges brought against them, which they denied. They complained about the torture they had suffered but were nevertheless remanded in prison, based on their signed "confessions", to await trial.

Both men were denied any adequate medical care, either during police custody nor in prison. The doctors failed to certify injuries which could help substantiate charges against the police. One of the certificates states that the injuries occurred 48 hours before their arrest, while another states "*no presentan huellas corporales físicas recientes*" (there were no recent physical marks present).

The Amnesty International delegation was able to identify several injuries on both men, especially on Demetrio Ernesto Hernández Rojas, which were consistent with the torture they described, including scars of electric torture. Furthermore, Dr Jorgen L Thomsen established that: "... as far as age determination of traumatic lesions is concerned there are no reliable methods. With regard to recent lesions, without a biopsy it is usually impossible to distinguish if the lesion is one or two or even three days old. Therefore it is difficult for me to understand how the forensic certificates (as described above) could establish with certainty that the lesions on the two men were sustained before 20 October".

Demetrio Hernández Rojas and Félix Fernández Estrada were released free of charge on 26 April 1995 and 5 May 1995 respectively. Those responsible for their arbitrary arrest and torture were never brought to justice, and by September 1995 the victims had still not received any compensation.

According to reports, the arbitrary arrest and torture of both men were carried out by members of the *Coordinación Nacional de Seguridad Pública* (CNSP), the National Coordination of Public Security, created in April 1994 to coordinate joint actions among different judicial police agencies and the armed forces against serious offences, particularly drug-related crimes. Like other police forces in Mexico, it has been accused of perpetrating serious human rights violations and for targeting political opponents.

Ineffectiveness of legal remedies

Defendants or their legal representatives may challenge convictions based on confessions extracted under duress, or otherwise illegally obtained evidence, by making use of the *recurso de amparo*, similar to a writ of habeas corpus, which enables individuals to challenge acts of state or federal authorities which infringe the individual guarantees enshrined in the Constitution. However, this remedy has continued to be reported as ineffective in most claims made by criminal defendants in cases of alleged coercion by law enforcement agents, since the first confession may still be used to convict even when the defendant proves it was forcibly obtained. Furthermore, a ruling on a *recurso de amparo* in a claimant's favour sets no precedent or jurisprudence: it has no applicability in other similar or identical cases.

Additionally, the *recurso de amparo* has proved ineffective in cases of secret detention, because it is only

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admissible when the authorities responsible for both the arrest and the whereabouts of the detainee are known. It is also limited in this regard because it only has local jurisdiction. If a detainee is transferred from one state jurisdiction to another, they or their lawyers must make a further deposition before the new authority.

Despite the existence of laws passed in recent years aimed at reducing the value of confessions made before the public ministry as evidence in court, and at punishing the illegal use of force, this situation persists. To Amnesty International's knowledge nobody has yet been sentenced under the 1986 Federal Law to Prevent and Punish Torture, which was reformed in 1992 purportedly to ensure its effective applicability.

The above concerns are clearly illustrated with the case of Manuel Manríquez San Agustín, a musician and member of the Otomí indigenous community of Ranchería Piedra Blanca, Tutotepec, in the State of Hidalgo, who was arbitrarily arrested without warrant by the PJDF in Mexico City on 2 June 1990. Like many Indian defendants in Mexico, he was allegedly detained because of his ethnic and economic background, which the police reportedly interpreted as precluding his access to lawyers or complaints mechanisms. Manuel Manríquez, who did not speak nor write Spanish at the time, remained incommunicado for four days under police custody and was brutally tortured with beatings; near asphyxiation with plastic bags over his head; carbonated water with chili forced into his nose, a method known as *tehuacanazo*, which takes its name from a popular brand of mineral water; burns, and electric shocks to sensitive parts of his body and was forced to "sign" papers he could not understand.

He was accused of murder and brought before a judge who, based on the defendant's "signed confession" remanded Manuel Manríquez San Agustín to the *Reclusorio Preventivo Norte* on charges of murder. Despite the illegality of his detention, the clear signs of torture - which were later certified by a prison doctor - and the lack of evidence other than his signed statements without an interpreter to support the charges, Manuel Manríquez San Agustín was sentenced in July 1991 to 24 years imprisonment. The sentence was confirmed on appeal on February 1992, despite the lack of any further evidence.

His case was also presented before the National Human Rights Commission (CNDH), which has issued a statement on his behalf acknowledging his torture, to no avail. Since his arrest, Manuel Manríquez has learnt to speak and read Spanish and, in September 1991, co-founded a human rights organization with other indigenous prisoners: the *Comisión de Defensa Campesina e Indígena del Comité Ricardo López Juárez*, which has actively campaigned on behalf of the rights of Indians and peasants imprisoned in the *Reclusorio Preventivo Norte* and other prisons in Mexico, including the cases of Diego and Claudio Martínez Villanueva, mentioned above.

Manuel Manríquez has become increasingly involved in campaigning for an end to torture and other human rights violations in Mexico. For example, on the first of April 1993 he joined a hunger strike carried out in several Mexican prisons by more than 50 prisoners. The inmates were calling for an end to torture and for fair and prompt trials in the Mexican criminal justice system.

In March 1994 a *recurso de amparo* was presented on his behalf, before the Supreme Court of Justice of the Federal District in order to contest the legality of his sentence. It was rejected in September 1994, and his sentence was confirmed.

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At the end of July 1994 Manuel Manríquez began his fourth hunger strike since imprisonment, calling for the release of scores of those reportedly held under false charges in Mexican prisons and, in desperation at the repeated lack of effective response from the authorities, on 15 August 1994 he stitched his lips in protest and began a dry hunger strike refusing to take any liquids or solid foods for over a week. He gave up his hunger strike on 23 August and was transferred to hospital where he received medical attention.

In October 1994 Manuel Manríquez's solicitor submitted another *recurso de amparo* on his behalf, which by September 1995 had not been responded to by the courts.

On 11 November 1994 Manuel Manríquez was transferred, without any previous warning, from the *Reclusorio Preventivo Norte* to the *Penitenciaría de Santa Martha Acatitla*, a prison in Mexico City. His transferral took place in the late hours of the night and he was deprived of his personal belongings. It was reportedly carried out in response to his peaceful activism on behalf of prisoners' human rights. He was held incommunicado for four days before being allowed to see his solicitor.

In January 1995 he was interviewed in prison by an Amnesty International delegate, who had visited him twice before in 1992 and 1993. Amnesty International, who considers Manuel Manríquez San Agustín to be a prisoner of conscience, continues to call for his immediate and unconditional release.

The problems in the Mexican criminal justice system described above continue to undermine the basic human rights of the population. Amnesty International believes they merit due and urgent attention by the political leadership of the country.

The present administration adopted some significant reforms to the judiciary shortly after President Zedillo took power. It reduced the number of members of the Supreme Court of Justice from 26 to 11; it empowered the Supreme Court of Justice to review the constitutionality of laws when requested by the Republic Attorney General or one third of members of either congressional chamber, and it created a *Consejo de la Judicatura Federal*, Federal Council of the Judiciary, for the appointment of district and circuit court judges, who were previously appointed by the Supreme Court. The members of the Supreme Court are still appointed by the President, with the approval of two thirds of the Senate.

While it is hoped that these reforms will help increase the independence and effectiveness of the judiciary in Mexico, additional urgent measures are needed, including the effective implementation of international standards pertaining to the judiciary, such as those contained in the UN Basic Principles on the Independence of the Judiciary, in order to ensure a genuinely independent, impartial and effective administration of justice.

Furthermore, Amnesty International believes that the Mexican government urgently needs to ensure that the judiciary, the Republic Attorney General's Office and the corresponding state counterparts, as well as the police bodies and all the security forces under their command, and the armed forces, should strictly abide to the rule of law established by international human rights instruments ratified by Mexico (see recommendations).

All those responsible for crimes should be promptly brought to justice without violating their or other

citizens' human rights, ensuring at the same time the security of the population. Correspondingly, the Mexican Government should also urgently provide the resources necessary for an effective administration of criminal justice.

THE NATIONAL HUMAN RIGHTS COMMISSION (CNDH)

Amnesty International has welcomed the steps taken in 1992 by the Mexican Government to place the National Human Rights Commission within the framework of the Mexican Constitution; to provide it with the resources necessary for its operation; and to facilitate the creation of similar bodies within each of the states of the federation. Since the CNDH's creation in 1990 Amnesty International has established a useful communication with its authorities. The CNDH and similar offices at state level are mandated to investigate cases of human rights violations reported to the institutions and to issue corresponding recommendations to relevant authorities. They hold no prosecutorial power. The CNDH has been instrumental in increasing human rights awareness in Mexico.²

Amnesty International has followed up the CNDH's reports and recommendations in specific cases of gross human rights violations and the organization has not failed to notice that in a large number of cases the authorities have failed to act upon the recommendations. Therefore, while welcoming the creation of the CNDH and its counterparts at a state level, Amnesty International believes that these commissions have failed to expose fully the ineffectiveness of the Mexican criminal justice system to investigate and punish human rights violations in the country. In fact, questions have been raised by Mexican and foreign human rights monitors about whether governmental human rights commissions in Mexico are the result of, or a factor contributing to, the ineffectiveness of the criminal justice system to curb human rights violations and impunity.

For example, in January 1994 the CNDH documented scores of gross human rights violations, including extrajudicial executions, in Chiapas (see below). The Mexican Government boasted that effective investigations into violations reported in Chiapas had been carried out. However, by September 1995, the authorities had failed to carry out any prosecution of those responsible, despite recommendations by the CNDH.

Lately, Amnesty International has welcomed the prompt investigation carried out by the CNDH into the June 1995 massacre of 17 peasants in Guerrero. The resulting report and corresponding recommendations have helped to bring some of those responsible to justice. The organization hopes this may signal the political will for an effective approach towards resolving the human rights problem in Mexico.

PRISONS

An area of continuing concern to Amnesty International is the human rights situation in many Mexican

² For further information about the CNDH's structure and mandate please see **Mexico: Torture with impunity** (AI Index: AMR 41/04/91) and **Mexico: The persistence of torture and impunity** (AI Index: AMR 41/01/93).

Reclusorios, remand centres, and *Centros de Readaptación Social* (CERESO), prison establishments, over which the federal government has an important responsibility. Prison conditions leading to inhuman, cruel and degrading treatment and, in some cases, torture of prisoners, continue to be reported to the organization.

For example, Amnesty International has continued to receive reports about the use of *apandos*, or so-called punishment cells, in some prison establishments despite an existing prohibition against such facilities. An officially-acknowledged example of this was the 1992 case of two prisoners in the San Luis de Potosí state prison who, after being tortured and ill-treated by the prison director, were confined naked in an *apando* and deprived of food, sanitation and medical attention. The director was removed in that same year after the publication of the case, and the *apandos* reportedly closed in that prison, although their use in several other prison establishments in the country has been documented by Mexican human rights organizations thereafter. For example, in June 1995 the Mexico City-based *Centro de Derechos Humanos "Fray Francisco de Vitoria"*, a non-governmental organization (NGO), published a special report about the human rights situation in Mexican prisons, which highlights the continuing use of *apandos*, the appalling living conditions, overpopulation and corruption affecting Mexican prisons.

In addition, in many remand centres and prisons in Mexico, inmates are expected to pay the warders to improve their living conditions, including access to adequate medical care, which is frequently unavailable in Mexican prisons. Such corruption leads to a differential treatment and resentment which, coupled with bad prison conditions, jeopardizes the peaceful coexistence and physical security of inmates and frequently leads to violence.

For example, on 3 and 4 May 1995 seven prisoners were killed and 103 were injured, some seriously, by members of the state police, in the CERESO of Puente Grande, a prison in the state of Jalisco. According to reports, on 3 May the inmates rioted and took three hostages among the warders to demand better living conditions. They called on the media to publicize their concerns. Later that day the police entered the prison to control the situation. According to reports, the police used excessive and arbitrary force to quell the rebellion. Six inmates were killed by the arbitrary use of firearms. An investigation carried out by the CNDH acknowledged that although many prisoners carried sticks and batons, as well as some makeshift knives, none was carrying firearms, as initially reported by the police. At least one prisoner, Efrén Rodríguez, was extrajudicially executed by the police with a close-range shot to the head. Once the situation was under control, prisoners were forced to lie face down and were brutally beaten, as a result of which one later died in hospital. In July 1995 the CNDH published a report about the incident and called on the state authorities of Jalisco for a full investigation into the incident, to bring those responsible to justice and to compensate the victims. To Amnesty International's knowledge, as of September 1995, the recommendations had not been acted upon.

GROUPS AT RISK

As illustrated above, members of all sectors of Mexican society may suffer human rights violations, but some groups face a much higher risk of abuse. These include the poor and dispossessed, particularly indigenous populations; active members of the opposition to the ruling party; human rights defenders; and members of some minorities such as Central American immigrants and gays activists.

Indigenous people

Amnesty International has welcomed the increasing awareness in Mexico, extending to other countries in Latin America, about the living conditions of indigenous ethnic groups; the preservation of indigenous culture and their integration into the economic life of the country while respecting the autonomy of indigenous communities.

Nevertheless, the increase in awareness of the situation of Mexico's more than eight million indigenous people has not necessarily been followed by an improvement in their human rights. This has been highlighted by the conflict in Chiapas, although similar human rights problems affecting Indian communities, most of whose members continue to be denied their full Constitutional rights including access to fair, prompt and impartial administration of justice, exist throughout Mexico.

For example, in March 1995 the governmental *Instituto Nacional Indigenista* (INI), National Institute of Indigenous Affairs, published *Necesidades prioritarias de atención en las zonas indígenas*, a report about the priority needs of Indian communities in 21 states of Mexico, which acknowledges -yet again- the frequent abuse suffered by Mexico's Indians, including widespread human rights violations by the security forces. For example, in Guerrero the report found that "...su población indígena padece la constante represión de los cuerpos policíacos y militares" (...its indigenous population suffers constant repression from police and military forces). In Chihuahua: "...uno de los problemas a los que se han enfrentado los Tarahumaras, son las constantes vejaciones a las que son objeto por parte de los cuerpos policíacos" (...one of the problems faced by the Tarahumara (Indians) are the constant abuses by the police forces). In Campeche: "...la población indígena de Campeche se enfrenta de manera constante a la violación de sus derechos humanos" (...the indigenous population in Campeche faces the constant violation of its human rights), and so on.

A large number of the human rights violations suffered by Mexican Indians are reported in the context of land-tenure conflicts, in which the poor peasants are the most frequent victims of the local authorities, including security forces, associated with powerful *caciques*, land-owners and power holders. While welcoming repeated announcements by the Mexican authorities about the need to prioritize the needs of indigenous populations in Mexico, Amnesty International is gravely concerned about continuing reports of serious human rights violations against members of indigenous communities and Indian rights activists in Chiapas and elsewhere.

For example on 11 November 1993 the municipal police of Wachochi in the state of Chihuahua, arbitrarily detained five peasants, including three Rarámuris (Tarahumara Indians) during an indigenous ceremony in the community of Caborachi. The peasants were reportedly detained for protesting about the lack of respect and the violent and arbitrary behaviour of the officials, who beat some members of the community and destroyed their belongings. Those detained were brutally beaten by the police, tied up with ropes and carried away in a truck to the local police station. They were denied access to lawyers, interpreters and even the local attorney and remained three days in prison without medical care before their release free of charge. Those responsible have not been brought to justice nor suspended pending an investigation. On 25 December 1993 Edwin Bustillos, an Indian rights activist who had filed complaints

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about the previous case, was abducted for a short time by five armed men dressed in civilian clothes, two of whom reportedly were police officers from Wachochi. He was questioned about his activities, threatened with death and brutally beaten, as a result of which he suffered fractures to the skull and ribs. Those responsible have benefitted from impunity.

Amnesty International is seriously alarmed about the continuing impunity granted to those responsible for the arbitrary arrest, torture and extrajudicial execution of Rolando Hernández Hernández and Atanacio Hernández Hernández, two members and leaders of the Náhuatl and Otomí Indian peasant community of Plan del Encinal, in Ixhuatlán de Madero, Veracruz, on 8 September 1994. They belonged to the *Organización de Pueblos Étnicos José María Morelos y Pavón* (OPEMORELOS) an Indian peasants' rights movement. Their community was raided at 7am on that same day by scores of members of *Seguridad Pública*, state police, and dozens of unidentified armed men who forcibly evicted the Indian community.

During the raid, Rolando and Atanacio Hernández Hernández were reportedly wounded by the police, arbitrarily arrested and transferred to a nearby ranch named "Las Tejas". They were never seen again. Their mutilated bodies were found on 17 September in a nearby river.

According to reports, the bodies presented injuries which included short-range gunshot wounds to the head and chest. The Indian peasants were forced to flee their community which remained surrounded by members of the security forces. They could not return for several days as they feared for their safety.

Those responsible for the gross human rights violations in the community of Plan del Encinal have not been brought to justice.

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In a communication to the UN Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, on 19 December 1994, the Mexican Government denied the murder of Rolando and Atanacio, claiming that their bodies had never been found: "*nadie de la comunidad vio los cadáveres y por lo demás, sólo son especulaciones hasta la fecha*", ("these are only speculations, given that no one in the community has seen the bodies").

Alarmingly, the government failed to acknowledge the existence of an investigation into the case sponsored by local human rights organizations immediately following the brutal murder of both Indian activists in September 1994, which resulted in a well documented criminal complaint presented before the authorities. The complaint included numerous photographs of the bodies, showing the gunshot wounds and other injuries.

Weeks after the discovery of the bodies, local authorities tried to exhume the remains. Relatives and human rights monitors halted the excavation fearing foul play and requested the presence of independent experts, in accordance with the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. An Amnesty International team which visited Mexico in January 1995 offered independent forensic expertise to the authorities in this case, but was denied authorization by Veracruz state officials to participate in the investigation, which has not been resumed as of September 1995. Meanwhile those responsible have not been brought to justice and the relatives of Rolando and Atanacio Hernández Hernández have not received any compensation.

Amnesty International has continued to receive scores of reports of gross human rights violations in Veracruz. For example, on 6 September 1995 Juan Ramírez Hernández, a peasant activist, and his 13-year-old son Orlando Ramírez Navarrete, who were Náhuatl Indian peasants, were murdered by a group of heavily armed unidentified men in their home in the community of Cuacuaco, Iamatlán.

Juan Ramírez's wife Maribel Navarrete and their three-year-old son were seriously wounded in the attack. The authorities acknowledged that what they described as a paramilitary group was carrying out attacks in the region, but as of September 1995 those responsible had not been brought to justice.

As illustrated above, indigenous women and children are also at risk. For example, María Teresa Méndez Santiz, age 20, Cristina Méndez Santiz, age 18, and María Méndez Santiz, age 16, Tzeltal Indians, were tortured and raped on 4 June 1994 by soldiers of the Mexican army near Altamirano, in the state of Chiapas. They were detained at a military roadblock while returning with their mother to their community of Santa Rosita Sibaquil.

The soldiers detained them and took them to a nearby building where they were accused of supporting the *Ejército Zapatista de Liberación Nacional* (EZLN), Zapatista National Liberation Army. The soldiers reportedly beat the women with their weapons and kicked them to extract information. They were then reportedly raped by about 10 soldiers before being released free of charge on that same day.

Local human rights monitors filed the women's complaints, which were accompanied by medical reports certifying the injuries, with the local public ministry on 30 June 1994. Weeks later, the human rights monitors received death threats for taking up this case. The public ministry reportedly failed to carry out any investigation into the complaints.

The Mexican army has continued to deny the accusations of torture and rape against the three Tzeltal women. On 1 July 1994 the *Secretaría de Defensa Nacional* (SEDENA), Defence Ministry, rejected charges made against military personnel in the case and threatened to file criminal complaints against those who, the army claimed, had slandered the institution. In September 1994 the case was transferred to military jurisdiction, but as of September 1995 no one had been brought to justice, nor had the victims received any compensation.

THE SITUATION IN CHIAPAS

Introduction

While Amnesty International has continuing concerns about the human rights situation of the indigenous population throughout the country, recent events in the southern state of Chiapas have prompted renewed attention from the international community over this region.

Amnesty International has documented human rights violations in Chiapas for many years and has issued several reports and documents, some of which have Chiapas as the focal point. For example, an extensive document entitled *Mexico, Human Rights in Rural Areas: Exchange of documents with the Mexican government on human rights violations in Oaxaca and Chiapas* (AI Index: AMR 41/07/86), published in 1986, highlighted continuing violations of human rights as well as a pattern of impunity benefitting state agents involved in such violations. That report stated that: "Peasants and Indians in rural Mexico have allegedly been the victims of political killings, torture, unacknowledged arrest and prosecution on false charges, according to reports received by Amnesty International over several years. Most of these alleged abuses took place in states with a large indigenous Indian population where there have been long standing land disputes."

This statement was echoed in the 1991 publication *Mexico: Torture with Impunity* (AI Index: AMR 41/04/91), which stated that "torture in rural Mexico has been widely reported for many years and was the subject of an Amnesty International report in 1986. Now, as then, many of the victims are peasants and indigenous peoples active in the struggle for land rights."

In 1992 the organization published two reports which documented human rights violations in Chiapas: *Mexico, Human rights violations against Ch'ol and Tzeltal Indian activists* (AI Index: AMR 41/05/92) and *Human rights violations against the Indigenous peoples of the Americas* (AI Index: AMR 01/08/92). The first document stated that the "failure of the Mexican authorities to fully investigate the complaints of torture, ill-treatment and illegal detention of members of indigenous communities and to bring those responsible to justice, leads Amnesty International to the conclusion that these violations take place with the acquiescence of the authorities."

And in 1993 the organization published *Mexico: Continuing human rights violations against members of the Tzeltal indigenous community in Chiapas* (AI Index: AMR 41//93), which documented events on 6 June 1993, when more than 1,000 members of the state security forces raided several Tzeltal

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communities. During this incident, "several people including women and children suffered beatings during the raid. Members of the security forces reportedly destroyed more than 100 houses" and stole belongings. Twenty-three men were detained and taken to Cerro Hueco prison where "they remained for three days and allegedly suffered torture" and were forced to sign confessions. Although the organization has noted that most of the victims of abuse in Chiapas are Indian peasants, Amnesty International has also documented human rights violations against other minorities there, including gay men (see *Mexico: Killings of gay men in Chiapas: the impunity continues*, AI Index: AMR 41/07/94).

Amnesty International believes that the long-lasting impunity granted to most of those responsible for the pattern of human rights violations in Chiapas described above is among the root causes of the January 1994 uprising. The rebels have called for an end to abuse by the authorities.

Serious human rights violations have persisted in Chiapas for quite a number of years. However, many of the worst human rights violations documented there by Amnesty International followed the Mexican army crackdown on the previously unheard-of and mostly indigenous EZLN, after its uprising on the first of January 1994.

Amnesty International has also condemned abuses, including the taking of hostages by the EZLN, an armed opposition group, (AOG), all of whom were released by mid-1994.

On 1 January 1994 the EZLN took control of a number of municipalities in Chiapas. By the following week the Mexican armed forces that had been sent to the region, (reportedly one-fifth of all national forces), had regained control of most of the towns occupied by the EZLN. Military actions included aerial strafing of civilians by air force units. While there was no formal suspension of Constitutional rights - as required by Mexican law in situations of national or local emergencies - the army reportedly used no restraint in its initial clamp-down against the rebels. At least 145 people, including soldiers, rebels and innocent civilians, died during the January 1994 military operations in Chiapas.

Following an outcry from national and international observers about extensive human rights violations by the army, President Carlos Salinas de Gortari announced the appointment of Jorge Carpizo, former director of the governmental National Human Rights Commission (CNDH), as Interior Minister and named former Foreign Minister Manuel Camacho Solís as *Comisionado para la Paz y la Reconciliación*, Commissioner for Peace and Reconciliation. On 12 January the government announced a cease-fire to begin peace talks with the rebels.

An effective ceasefire lasted until February 1995, although in early December 1994 the EZLN declared a break to the truce in protest against the inauguration of the state's PRI candidate to the governorship. The rebels claimed that the PRI had used widespread fraud to win the August 1994 local elections in Chiapas.

Following a series of frantic negotiations between the Mexican Government and the EZLN, peace talks were resumed on 15 January 1995. Two days later the EZLN announced an indefinite cease-fire and the Mexican authorities promised a peaceful solution to the conflict.

However, on 9 February 1995 President Ernesto Zedillo announced a clamp-down on the EZLN and ordered police and army operations to arrest the EZLN leadership and regain full territorial control of

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remote jungle areas in Chiapas. As in January 1994, Constitutional rights were not formally suspended in the area of conflict, although the army again carried out widespread arrests of civilians and effectively prevented free access and transit to the region to journalists, human rights advocates and even a delegate of the International Committee of the Red Cross (ICRC), who was turned back at an army checkpoint near the town of Altamirano on 12 February 1995.

During the February 1995 military and police operations in Chiapas, the Mexican army again carried out human rights violations, including extrajudicial executions, arbitrary arrests and torture.

The Mexican army also violated medical neutrality, which is established by humanitarian law applying to armed conflicts.³ It took over the local clinic at the former EZLN stronghold of Guadalupe Tepeyac, as a result of which the ICRC decided to close down its operations there.

The reports of abuse triggered widespread public outcry in Mexico and abroad. On 14 February 1995 President Ernesto Zedillo halted the operations, although Mexican army units continued to raid remote communities in Chiapas for several weeks.

Police raids against suspected EZLN members were also reported in other parts of the country, as well as Mexico City, during which dozens were arbitrarily arrested, including prisoners of conscience, and many suffered brutal torture.

Weeks later the Mexican Government offered to continue peace negotiations with the EZLN. Between 10 April and September 1995 both parties had held six rounds of talks in the town of San Andrés Larráinzar, Chiapas, promising to work towards a peaceful settlement of the conflict.

Amnesty International has documented scores of gross human rights violations reported in Chiapas since the beginning of the January 1994 conflict. These include extrajudicial executions; "disappearances"; the widespread use of torture and beatings; arbitrary arrests, including the detention of prisoners of conscience; death threats against human rights monitors, and violation of medical neutrality. Two Amnesty International delegations visited Chiapas, in January 1994 and January 1995, to document some of the cases reported to the organization. Amnesty International has continued to follow up the situation in Chiapas very closely.

The following are some of the cases of serious human rights violations documented in Chiapas since January 1994.

³ Mexico is a party to the Geneva Conventions of 1949 and to Protocol II, additional to these conventions.

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Arbitrary arrest and torture of civilians by the Mexican army in January 1994

During its January 1994 visit, Amnesty International's delegation interviewed and examined scores of detainees from several villages and towns in Chiapas, including Ocosingo, Altamirano, San Cristóbal de las Casas, Morelia and Tenejapa. Because most of those detained by the Mexican army reportedly ended up in Cerro Hueco, a prison in Tuxtla Gutiérrez, the state capital, their cases provided a broad outline of the pattern of actions the Mexican army had engaged in.

None of those imprisoned in Cerro Hueco at the time of Amnesty International's visit had been captured in combat and the charges brought against all but a handful were based exclusively on forced confessions extracted under duress. The interviews and research into some of the prisoners' files revealed that most, if not all, had no connection whatsoever with the EZLN. The findings helped to explain the authorities' reluctance to allow visits to the prisoners who the government had repeatedly claimed belonged to the rebel movement.

Those detained in Cerro Hueco had been arbitrarily detained, had suffered torture and ill-treatment at the hands of members of the Mexican army and had been denied the right to a fair trial. Most had been forced under torture or reported death threats into signing confessions or posing for photographs holding weapons.

The vast majority of the detainees were indigenous people, mostly belonging to the Tzotzil, Tzeltal, and Mame groups. Many had been subjected to methods of torture that Amnesty International had previously documented in Chiapas as well as in the rest of Mexico, including denial of food or water for prolonged periods; burns; forcible introduction of carbonated water in the nose; ligatures so tight they cut into the wrists - one detainee seemed to have lost the use of one of his hands as a result of neurological damage; beatings and kicks; electric shocks; near-asphyxiation with a bag or through the submersion of the detainee's head into a vat of water; and constant death threats. Among the detainees were three municipal authorities from the city of Tenejapa and at least two minors.

Following a national and international outcry, all those unlawfully imprisoned in Cerro Hueco were released. While this was welcomed by Amnesty International, the organization remained deeply concerned about reports that many of those released had received death threats by members of the security forces and no one received compensation for the damages inflicted by state agents.

Extrajudicial executions in Ocosingo

Dozens of cases of gross human rights violations by the Mexican army were reported in Ocosingo. For example, six bodies were discovered in the local market-place by foreign journalists on 4 January. They were victims of extrajudicial executions.

Witnesses' accounts and forensic evidence indicated army responsibility in the summary executions. The bodies were found lying face down; some still with ligatures in their wrists; many with fresh scars consistent with wounds left by the ligatures; they were shoeless, matching descriptions of the methods

used by the army during detention of many of those arbitrarily arrested in that town and accused of belonging to or supporting the EZLN, as described by inmates interviewed in Cerro Hueco.

Independent forensic observers found that the close-range gunshot wounds to the heads of the victims were consistent with weapons used by the Mexican army. The army has nevertheless denied any responsibility for these killings, and by September 1995 those responsible had still not been brought to justice.

On 3 January 1994 the Mexican army arbitrarily stormed the *Instituto Mexicano del Seguro Social* (IMSS), a local hospital belonging to the national health care system, in Ocosingo, in clear violation of medical neutrality. Eleven people, including patients and relatives, were arbitrarily shot and killed by the soldiers. At least five of the victims, including Mariano Gómez López, Manuel Gómez López and three others, were extrajudicially executed. The hospital staff, the patients and their relatives were held in captivity in the hospital premises and interrogated by members of the army for several hours before their release, after which the hospital was closed down by the Mexican army. Following the incident, the bodies of the 11 victims were buried in a mass grave dug outside the hospital by local residents, under orders of the soldiers.

Alarmingly, on 16 January 1994 the CNDH reported that the 11 victims were members of the EZLN who had been killed in combat. However, following a public outcry about the case, the CNDH rectified its initial report, and in June 1994 announced that at least nine of the victims were patients and their relatives.

Investigations into the killings were opened in the military jurisdiction in February 1994. The military prosecutor in charge of the case published his findings in September 1994. It acknowledged the killings, including executions, but charged only one officer, Second Lieutenant Jiménez Morales, for the crimes, thus relieving the Mexican army of criminal accountability. In his report, the prosecutor recommended closing the case without prosecutions because the prime suspect, Jiménez Morales, had died on 15 April 1994. He was found dead from a gunshot wound to the head, in the premises of the Ministry of Defence, in Mexico City, where he had reportedly been held on remand. According to a report published by the Mexican army on 18 April 1994, Jiménez Morales had committed suicide.

In June 1995 the *Procuraduría General de Justicia Militar*, the attorney general's office for the military jurisdiction, denied any responsibility of the Mexican army in the killings of the Ocosingo hospital, or any other human rights violations reported in Chiapas.

No adequate investigation into the killings in the IMSS hospital in Ocosingo has been carried out by the civilian criminal justice system and by September 1995 all those responsible for the gross human rights violations carried out by the Mexican army in Chiapas continued to benefit from total impunity.

Events in Morelia, including "disappearances" and extrajudicial executions

In the early morning of 7 January 1994 scores of Mexican troops arrived at the mostly Tzeltal Indian village of Morelia, close to Altamirano. The soldiers forced their way into homes, destroying the owners'

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belongings and dragged the men outside. Many of the women and children were made to lie in front of their homes for approximately an hour. The soldiers took the men to the village square - which is a concrete basketball court - and made them lie face down. Those who moved or complained were reportedly beaten. Some of the men had their heads pounded into the concrete by the soldiers. The men were forced to remain in the square until late afternoon.

Sebastián Santiz López, age 65, Severiano Santiz Gómez, age 60, and Hermelindo Santiz Gómez, age 45, all Indian peasant leaders, were taken inside the church where they were tortured. The men in the square heard their screams and some later saw them being forced into a military ambulance. This was the last time they were seen alive. At least one of the men appeared to be bleeding profusely from the head and witnesses indicated that he had been cut on the face and the ears. One of the men's hands reportedly hung limply, as if his arm had been broken. They remained "disappeared" until 10 February 1994 when the bodies of the three, bearing signs of injuries consistent with summary executions, were discovered near Morelia.

Sebastián Santiz López and Hermelindo Santiz Gómez were last seen alive in the custody of Mexican soldiers in the ejido of Morelia on 7 February 1994.

An Amnesty International delegation which visited Morelia on 20 January 1994 interviewed dozens of residents, including victims of the army attack. The delegation immediately raised the organization's concerns to the Mexican authorities, particularly regarding the cases of Sebastián Santiz López, Severiano Santiz Gómez and Hermelindo Santiz Gómez, who at that time remained "disappeared" and were feared dead.

Following the discovery of the victims' remains, local human rights monitors and the relatives called on independent forensic experts to confirm their identity and to establish the cause and manner of death. The Mexican army tried to prevent the investigations and tampered with evidence. For example, on 12 February a delegation of the Mexican army confiscated the remains, which were under custody of the local public ministry of Altamirano, for several hours. Based on a parallel investigation opened in the military jurisdiction, the Mexican army claimed later that month that the remains were a mixture of non-human bones and old human skeletal fragments. Nevertheless, to Amnesty International's knowledge, the Mexican army has no specialists in human skeletal identification or forensic anthropology to certify the army's claims beyond reasonable doubt.

The participation of the CNDH helped ensure that independent and qualified forensic experts, including a forensic anthropologist and molecular biologists commissioned by Physicians for Human Rights, a US-based non-governmental organization, had access to the remains. They helped to establish, beyond reasonable doubt, that the remains discovered near Morelia on 10 February 1994 belonged to the three men who had "disappeared" following their arrest by the Mexican army. Their identity was confirmed using DNA testing. The victims reportedly died of multiple blunt force trauma, within the three months prior to the finding of the remains.

On 27 February 1994 the remains of Sebastián Santis López, Severiano Santis Gómez and Hermelindo Santis Gómez were buried by their relatives in the Morelia cemetery.

The findings were conveyed to the Mexican Government in the second half of 1994. Despite conclusive evidence to the contrary, the Mexican authorities have continued to claim no responsibility for the killings in Morelia. For example, a report published by the attorney general for the military jurisdiction in June 1995 denies that the remains belonged to the victims. The relatives of the victims have continued to call for justice, but by the end of September 1995 nobody had been made accountable.

Amnesty International is also gravely concerned about the 1994 response from the Mexican Government to the UN Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, regarding the torture and murder of Severiano Santis Gómez, Sebastián Santis López and Hermelindo Santis Gómez.

In its communication, the Mexican Government appears to undersign the widely criticised report from the Mexican army, stating that the above-mentioned human remains did not belong to the named victims and denying any official responsibility for their abduction, torture and extrajudicial execution, despite scientific and testimonial evidence to the contrary.

Arbitrary arrest and torture of Indian peasants by the security forces during military operations in February 1995

On 9 February 1995 Alfredo Jiménez Santis and Mario Álvarez López, Tojolabal Indian peasants, were arbitrarily arrested near their community of Ejido, Chiapas by members of the Mexican army and transferred to military barracks in Tuxtla Gutiérrez. During their officially unacknowledged detention they were reportedly interrogated under torture about their activities. Torture included electric shocks to sensitive parts of the body, semi-asphyxiation with plastic bags and submersion in water barrels. They

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were also brutally beaten and reportedly forced to sign papers whose contents they could not see. They remained "disappeared" until 13 February, when they were released free of charge.

On 13 February Octavio Santiz Burguete and Trinidad Pérez Pérez, Indian peasants, were reportedly detained without a warrant at army roadblocks near the town of Las Margaritas. Trinidad Pérez Pérez was allegedly blindfolded and tortured with beatings, semi-asphyxiation with a plastic bag over the head and submersion in a river. He was forced to confess to supporting the EZLN, following which he was threatened to stay away from the military roadblocks, and then released, free of charge, on that same day. Octavio Santiz Burguete reportedly had water forced into his mouth while soldiers beat him on the stomach. He was forced into a military vehicle and transferred to military barracks in Comitán, where he remained incommunicado until the following day, when he was released free of charge.

Amnesty International also received reports of extrajudicial executions carried out by the security forces during the operations. For example, Gilberto Jiménez Hernández, a peasant, was shot in the head and killed by soldiers who raided his community of La Grandeza, on 20 February 1995. Other members of that community, including Ramiro Alfonso Hernández, Manuel Jiménez Gómez and Sebastián Mena López, were arbitrarily arrested by soldiers on that same day and transferred in a military helicopter to military barracks in Tuxtla Gutiérrez, where they suffered brutal beatings before their release, free of charge, in the following days.

While welcoming the end of military operations in Chiapas, announced by the Mexican Government on 14 February 1995, Amnesty International is deeply concerned that by September 1995 serious violations continue to be reported in that state.

For example, on 17 September 1995 Artemio Roblero Roblero, a member of the *Partido de la Revolución Democrática* (PRD), Revolutionary Democratic Party, an opposition party, was murdered outside his home in the town of Angel Albino Corzo. According to reports he was shot by two unidentified men believed to be *guardias blancas*, hired gunmen acting on behalf of local chieftains. Artemio Roblero was standing as a candidate for the PRD in municipal elections to be held in October 1995. Shortly before his murder Artemio Roblero had received death threats to step down from his candidacy. As of the end of September 1995, those responsible had not been brought to justice.

In the previous year, Roberto Hernández Paniagua, another local PRD leader in Angel Albino Corzo had been gunned down on 6 September 1994 by *guardias blancas* reportedly hired by local *caciques*, chieftains, linked to the ruling PRI. Nobody was brought to justice for his murder.

Amnesty International has made urgent appeals to the Mexican Government to end the abuses in Chiapas, the most frequent victims of which are the indigenous people and to bring all those responsible to justice. The organization believes that only the full protection of human rights and an effective end of impunity will prevent further abuses there.

The Mexican Government should also urgently make effective the legal and administrative instruments available in Mexico for the full protection of human rights of its indigenous people living in other regions of the country.

MEMBERS OF THE OPPOSITION

Active members of grassroots organizations or political parties which challenge the rule and dominant power-structures of the PRI, which has governed Mexico for more than 60 years, continue to face human rights violations.

Prominent among the victims of political repression in Mexico are the members of the PRD, a centre-to-left political party with a large following among the poor, including Indian peasants.

The PRD claims to have documented 292 murders of party activists between July 1988 and January 1995. In January 1994 the CNDH confirmed official responsibility in 67 out of 140 cases of killings of PRD members reported to the agency. In most cases those responsible for the attacks, including *guardias blancas*, acted with the acquiescence of local authorities and have remained unpunished.

For example, the brothers Benjamín Méndez Gómez, age 17, and Daniel Méndez Gómez, age 31, and their mother, Margarita Gómez Santiz, age 50, all three from the Tzeltal Indian community of Bumiljá, Oxchuc, in Chiapas, were brutally assaulted in January 1995 for their support of the PRD.

They were reportedly attacked on the night of 1 January 1995 by local members of the PRI who broke into their home. According to reports, the perpetrators, many of whom were identified by the victims, had been supplied with weapons, including clubs and sticks, by the chief of the municipal police with the consent of the *Presidente Municipal*, the mayor, both of whom are members of the PRI. At least 15 people participated in the attack, using clubs, sticks and stones. During the attack, the perpetrators threatened the victims with death for their activism on behalf of the PRD.

Benjamín Méndez Gómez, a local school teacher, and Margarita Gómez Santiz were beaten unconscious for several minutes. The attack reportedly stopped when other members of the community intervened on behalf of the victims. On the next day they were transferred to a hospital in San Cristóbal de las Casas, where they remained under treatment for several days.

On 4 January 1995 the victims were interviewed and examined by an Amnesty International delegation, including Dr. Jorgen L. Thomsen, who certified that their injuries, including fractures and cuts, were fully consistent with the reports.

Local human rights monitors had tried to file a criminal complaint on behalf of the victims on 2 January, but at the time of the visit by Amnesty International's delegation, the public ministry had failed to take their testimonies. The public ministry only took the complaints on the afternoon of 4 January 1995, but as of September 1995 those responsible for the attack had not been brought to justice.

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On 17 August 1995 Juan Téllez García, a Mixteco Indian peasant activist and member of the PRD, was killed near his home in the community of Barrio Nuevo San José, Guerrero. According to reports he was shot by *guardias blancas* under instruction of the local mayor, a member of the PRI. Juan Téllez was also an activist for the *Consejo Guerrerense 500 Años de Resistencia Indígena*, Guerrero Council 500 Years of Indigenous Resistance, a grassroots organization of local indigenous peasants demanding fair local elections and better living conditions.

In some regions of the country even the highest authorities still resort to extreme violence to quell any challenge to their rule, including peaceful expressions of dissent or demands for respect of human rights.

For example, 17 peasants were massacred and 19 injured, by the Guerrero state police on 28 June 1995. The victims were among a large group of unarmed peasants, including women and children, who were travelling in lorries to Atoyac de Álvarez, near Acapulco, in Guerrero, to participate in a demonstration to demand the release of Gilberto Romero Vázquez, a peasant activist who had "disappeared" in that town on 24 May 1995 (see below). Many of the victims belonged to the *Organización Campesina de la Sierra del Sur* (OCSS), Southern Sierra Peasant Organization, a peasants' rights organization of which Gilberto Romero was a leader.

According to reports, scores of state police officers, together with *guardias blancas*, stopped the lorries at a roadblock near the village of Aguas Blancas, Coyuca de Benítez municipality. The police and *guardias blancas* then reportedly opened fire on the lorries for some 15 minutes. According to reports later confirmed by local authorities, the state governor had instructed the security forces to quell the demonstration in Atoyac de Alvarez, if necessary by violent means.

The attack on 28 June had been planned in advance, to the extent that members of the state government were present to film scenes of the killing. The film was edited and tampered with in order to support initial claims from the state authorities who announced that the peasants had been killed during an exchange of gunfire with the security forces. But a doctor who attended the wounded at the scene reported that he saw no evidence that the peasants were carrying firearms. Investigations carried out by

the CNDH confirmed that the peasants had been killed unarmed, and that at least one, Daniel López Castañeda, was summarily executed with a close range shot after the perpetrators noticed he had survived the killings. Several senior members of the state government were present during the attack, including the *Director General de Gobernación*, Director General of Internal Affairs; *Sub-Procurador*, Deputy Attorney General; a head of the state police forces; a public ministry agent and an officer of the secretary of internal affairs.

The investigations into the killings by the Guerrero state authorities were fraught with irregularities, presumably to protect those responsible and to support the local government's claims about a shoot-out. For example, local official forensic doctors falsified autopsy findings and failed to report wounds consistent with summary executions.

The massacre led to widespread calls on the Mexican Government for an immediate and effective investigation and to bring the perpetrators to court. While the criminal justice system failed to comply with its duties, the CNDH was immediately commissioned to investigate the events. On 14 August 1995 the CNDH published a lengthy report which documented in detail the local authorities's responsibility in the killings. It named many of those who participated in the events and recommended that they should be suspended pending trial. The CNDH also called for an investigation by a special attorney, fully independent from the Guerrero state authorities. It also recommended a restructuring of the state police forces in Guerrero and for compensations for the wounded and relatives of the victims. The CNDH nevertheless stopped short of naming the state governor among those responsible for ordering the police operation.

In July 1995, ten members of the Guerrero state police, including two commanders, were remanded in custody under charges of manslaughter. Also, some of the government officials named in the CNDH's report were suspended, pending investigation, following its publication.

While welcoming the steps adopted by the Mexican authorities to investigate the massacre of 28 June and to bring some of those responsible to justice, as of September 1995 the organization remains concerned that many of those named in the CNDH's report have benefitted from impunity, including high government officials.

After the incident, hundreds of police officers reportedly arrived in the region, and during the following weeks Amnesty International received dozens of reports of threats and intimidation against local peasant activists. For example, Benigno Guzmán Martínez and José Ascencio Domínguez, OCSS leaders, had to go into hiding following repeated death threats shortly after the killings. Héctor Ponce Radilla and David Molina, local members of the PRD who denounced the police attack of 28 June 1995, also received threats.

On 15 July 1995 Ismael Mena Álvarez and Eugenio Aguirre Bahena, founding members of OCSS, were murdered by *guardias blancas* after a meeting held in the community of Tepetixtla, Guerrero. As of September 1995 those responsible for their murders had not been brought to justice.

Amnesty International fears that the impunity which benefits most of those responsible for gross human rights abuses against members of the opposition and grassroots organizations in Guerrero and elsewhere

may fuel further escalation of violations. The organization has made urgent appeals to the Mexican Government to ensure full protection of human rights and an effective end to impunity in Guerrero.

HUMAN RIGHTS DEFENDERS

Human rights defenders and non-governmental organizations (NGOs) in Mexico have continued to raise human rights awareness among the Mexican population. As a result of their outstanding work, the government has been forced to recognize the seriousness of the problem. Recently, human rights defenders have played a key role in preventing an escalation of human rights violations in the context of the conflict in Chiapas, but they have also suffered increasing harassment and threats for their activities in Mexico. Alarming, the perpetrators appear to benefit from total impunity⁴.

For example, in October 1992, María Teresa Jardí, a prominent human rights lawyer in Mexico City, received written death threats which contained details of her personal life, suggesting that she was being closely followed. She was reportedly targeted for her public complaints against serious irregularities including the torture of innocent detainees, in the investigation into the 1991 extrajudicial execution of Dr. Víctor Manuel Oropeza. Dr. Oropeza, a journalist and civil-rights activist, is believed to have been killed for his criticism against local authorities for abuse and corruption in Ciudad Juárez, Chihuahua. As of September 1995 those responsible for his murder had not been brought to justice.

The threats against Teresa Jardí stopped following a national and international campaign on her behalf.

In mid-1994, Sergio Aguayo, director of the *Academia Mexicana de Derechos Humanos*, Mexican Academy of Human Rights, an NGO in Mexico City, received death threats reportedly provoked by his calls for full respect of human rights during the August 1994 general elections.

On 29 October 1994, Fernando Anaya Imaz, president of the *Centro de Información y Monitoreo de los Derechos Humanos* (CIM), Human Rights Information and Monitoring Centre, an NGO, was followed in Mexico City by a car without number plates carrying five unidentified men, one of whom threatened him with death for his activities.

On 17 August 1995, Father David Fernández, a Jesuit priest and head of the *Centro de Derechos Humanos Agustín Pro-Juárez* (PRODH), Human Rights Centre Agustín Pro-Juárez, an NGO in Mexico City, was threatened with death for his recent statements about alleged official participation, including the *Coordinación Nacional de Seguridad Pública* (CNSP), National Coordination of Public Security, in human rights violations against political activists. He named the CNSP as one of the agencies responsible for abuses.

Prominent among those targeted for advocating human rights are those working on behalf of the rights of indigenous populations in Mexico, including members of the Catholic church.

⁴ Please see *Human rights defenders: Breaching the walls of silence* (AI Index: IOR 40/07/95): a summary of AI Concerns about the risks faced by human rights defenders worldwide with recommendations for ensuring full respect and effective protection of their work. Amnesty International November 1995 AI Index: AMR 41/21/95

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For example, Samuel Ruiz, the Roman Catholic Bishop from San Cristóbal de las Casas, Chiapas, has been active for decades in advocating human rights on behalf of the local indigenous population.

Bishop Samuel Ruiz has also played a fundamental role in empowering peace negotiations between the Mexican Government and the EZLN. Over the years he has received dozens of death threats from *guardias blancas*, power-holders and even local authorities.

For example, on 19 February 1995, scores of PRI supporters in San Cristóbal de las Casas demonstrated with the acquiescence of local authorities, against Bishop Samuel Ruiz, hurling abuse, making death threats and throwing stones, chairs and eggs against the doors of the Cathedral. Press reports indicate that the police only intervened two hours after the incidents had begun.

Several members of Bishop Samuel Ruiz's diocese have also been targeted for advocating human rights of local indigenous people. For example, on 9 February 1995, José Alberto Paniagua Mijangos, a seminarian in the city of San Cristóbal de las Casas, was reportedly followed by individuals in an unmarked car, believed to be members of the federal judicial police. He was allegedly threatened that he would suffer "misfortunes" if he continued with his pastoral work on behalf of the indigenous people. On 15 February 1995, members of the judicial police and the public ministry broke into the church of San Jacinto in the municipality of Ocosingo, reportedly to search for "subversive" material.

The same group later raided the local convent of the Dominican Brothers and Sisters, also without search warrants. In early 1995, members of the *Centro de Derechos Humanos "Fray Bartolomé de las Casas"*, a prominent human rights organization founded in San Cristóbal de las Casas by Bishop Samuel Ruiz, frequently reported the intimidating presence of heavily armed personnel near their offices.

On 23 June 1995 Fathers Rodolfo Izal Erloz, a Spanish national, Loren Riebe, a US national, and Jorge Barón Gutlein, an Argentinian, Catholic parish priests in the towns of Sabanilla, Yajalón and Venustiano Carranza, respectively, were arbitrarily arrested and expelled from the country by the Mexican Government. The three were members of the diocese of San Cristóbal de las Casas and had helped promote the welfare of local Indian peasants in their parishes in the state of Chiapas. For example, Father Izal Erloz had helped victims of human rights violations in Sabanilla articulate their complaints before the local authorities. Dozens of abuses against the local Indian peasants were carried out by the Mexican army stationed there since late December 1994. Father Riebe had lived in Chiapas for 19 years and had frequently provided advisory support including advanced training in organic agriculture to local Indian communities.

According to reports, the Mexican Government's decision to deport the priests was based solely on unfounded accusations from powerful local landowners alleging that the priests had engaged in political activities.

Under article 33 of the Mexican Constitution the government may deport foreigners who engage in open political activism in the country. Although ill-defined, article 33 is normally interpreted as applying to foreigners' involvement in Mexican party politics.

While abroad, the three have appealed against their deportation and have requested authorization to return to Mexico, but as of September 1995 they had not received a response from the Mexican authorities.

Amnesty International is seriously alarmed about the arbitrary use of article 33 to deport foreigners targeted solely for their peaceful activities on behalf of victims of abuse. Amnesty International is concerned that the recent expulsion of foreign human rights advocates in Mexico may indicate the government's intolerance against those perceived as exposing abuse in Mexico. The organization therefore calls on the Mexican Government to make effective its purported commitment to protect and support all human rights defenders in the country.

Other prominent figures of the Catholic church recently targeted for their human rights advocacy include Bishop Arturo Lona Reyes. On 29 June 1995, the car in which he was travelling was shot at near Tehuantepec, Oaxaca, by two masked men, reportedly *guardias blancas*, who approached his vehicle and fired several times.

During the past 10 years Arturo Lona Reyes, the Roman Catholic Bishop of Tehuantepec and a well-known human rights defender in that region of Oaxaca, is reported to have received death threats for his activities on six separate occasions before this latest attack.

Amnesty International makes an urgent appeal to the Mexican Government to ensure full respect and protection for the activities of all human rights monitors in Mexico working on behalf of human rights in the country and abroad.

MIGRANTS AND POLITICAL REFUGEES

The flow of economic and political refugees to Mexico, mostly from Central American and Caribbean countries including those with a problem of gross human rights violations, poses a challenge to the Mexican authorities.

In such a context, Amnesty International views with concern the fact that although Mexico has passed legislation since 1989 aimed at protecting these refugees, its full implementation has still not been made effective. Neither has Mexico signed the 1951 United Nations Convention relating to the Status of Refugees, nor the UN 1967 Protocol. Scores of potential refugees still lack the safe and effective channels for a prompt consideration of their cases by the Mexican authorities.

For example, it has frequently been reported to Amnesty International that people arrested under suspicion of being illegal immigrants in Mexico are subjected to detention conditions which constitute cruel, inhuman and degrading treatment. Moreover, these people often lack the legal or administrative means to appeal to higher bodies to avoid forced repatriation which may expose them to reprisals in their country of origin.

Also, fear of deportation or violent retaliation prevents many foreigners, particularly the poor, from complaining about gross human rights violations suffered in Mexico. Those responsible seem to enjoy absolute impunity. For example, in early September 1995 at least ten Guatemalan Indian peasants were seriously wounded near Ciudad Hidalgo, Chiapas, by members of the state security police and *guardias blancas*. The victims were attacked with clubs and firearms during a peaceful demonstration by Guatemalan peasants working in local banana plantations who were demanding the payment of their

long-due meagre salaries. Those responsible were not brought to justice.

THE "DISAPPEARED"

Amnesty International is seriously concerned about unresolved cases of politically motivated "disappearances", hundreds of which were reported during the seventies and early eighties in Mexico. While the organization has welcomed the substantial decrease of new cases of "disappearances" in Mexico in recent years, Amnesty International has continued to receive sporadic reports of "disappearances" in that country.

Amnesty International has not failed to note that there has been no substantial progress in the clarification of a large number of past cases where the victims were reportedly targeted for their political activism, particularly in terms of bringing those responsible to justice and finding the whereabouts of the "disappeared".

All but a handful of the cases about which Amnesty International has presented its concerns to the Mexican authorities have remained unresolved.

The Mexican authorities have failed to carry out effective investigations even in those cases where substantial information exists to suggest official participation in the "disappearance".

While Amnesty International has welcomed the creation of an official body, under the direction of the CNDH, to carry out investigations into the "disappearances" reported in Mexico, Amnesty International is alarmed about the fact that the whereabouts of any of the "disappeared" reported by the organization, including those of José Ramón García Gómez, a political activist who "disappeared" in Morelos in December 1988, have not been clarified.

For example, Víctor Pineda Henestrosa was abducted at about 10am on 11 July 1978. He was in his car in the centre of Juchitán, a town in Oaxaca, when he was seized by five armed soldiers and dragged into another vehicle. There were more than 10 witnesses to his abduction.

Until two years before his abduction he had held the post of *promotor agrario*, a government post for agrarian development, in the capacity of which Víctor sided with local peasants in their claims for land. When Víctor Pineda Henestrosa was removed from his post he continued to act informally as an advisor to peasants in Juchitán.

Víctor's family presented formal complaints, immediately after his abduction, to the local public ministry, the state attorney general and the state governor. The people of Juchitán, where Víctor Pineda Henestrosa was a well-known figure, organized protests to demand his release, including a hunger strike opposite the municipal palace which lasted 18 days. In September 1979 a statement was made by his wife, Cándida Santiago Jiménez, and three other witnesses, to the state attorney general's office describing the circumstances of Víctor's abduction. Members of the 11th Mexican army battalion, stationed near Juchitán, are believed to have participated in Víctor's abduction. For example, eye-witnesses have named a Second Sergeant from the 11th Battalion, as among the armed soldiers who abducted Víctor Pineda Henestrosa.

Over the years Amnesty International has written scores of letters to Mexican authorities requesting information about Víctor Pineda Henestrosa's whereabouts, to no avail. In 1992 the attorney general of the state of Oaxaca informed Amnesty International that the criminal investigation relating to the disappearance of Víctor Pineda Henestrosa was continuing, with the help of the CNDH.

According to information released by the CNDH in October 1994 Víctor's remains had been identified. The CNDH claimed that they had been recovered from inside a burnt car discovered near Juchitán on 14 July 1978! In its report, the CNDH also claimed that there is no evidence that the Mexican army was involved. At that time, the information, which is not supported by any credible evidence, had not been conveyed to the relatives of Víctor Pineda Henestrosa.

Amnesty International has continued to press for full and effective investigations into the whereabouts of Víctor Pineda Henestrosa, for those responsible to be brought to justice and for full compensation to the relatives.

As stated above, Amnesty International has continued to receive reports of "disappearances" in Mexico. For example, Infantry Lieutenant Miguel Orlando Muñoz Guzmán, age 25, remains "disappeared" since 8 May 1993, when he was last seen at the *26 Batallón de Infantería*, an army battalion, in Ciudad Juárez, Chihuahua. Despite repeated calls for an investigation into his whereabouts the authorities have failed to establish responsibility for his "disappearance".

Recently, in the context of the January 1994 uprising in Chiapas, at least 14 Tzeltal Indians remain "disappeared" after their reported arrest by army units early in that month.

On 24 May 1995, Gilberto Romero Vásquez, a peasant activist and leader of the *Organización Campesina de la Sierra del Sur* (OCSS), Southern Sierra Peasant Organization, "disappeared" in Atoyac de Álvarez, Guerrero. A demonstration organized weeks later by local peasants demanding the release of their leader ended in a bloodbath, when state police murdered 17 peasants travelling to Atoyac de Álvarez for the meeting (see above). As of September 1995 the whereabouts of Gilberto Romero Vásquez remain unknown.

Amnesty International believes that the Mexican Government has the obligation to ensure a full, prompt and impartial investigation into all cases of reported "disappearances" and to bring those responsible to justice.

CONCLUSION

As illustrated in this report, the issue of human rights violations in Mexico has still not been satisfactorily resolved.

This calls for urgent and coordinated action, which is fundamentally a responsibility of the Mexican Government. However, the government should also welcome and support the increasingly important

contribution of Mexican non-governmental organizations, together with international NGOs, as well as inter-governmental organizations, towards monitoring and helping to ensure the effective promotion and protection of human rights and, whenever appropriate, humanitarian law in Mexico.

It is with this understanding that Amnesty International is presenting the concerns expressed above together with the following recommendations, many of which have been included in previous reports presented by Amnesty International to the Mexican Government, including the 1994 memorandum to the elected Presidential candidate, Ernesto Zedillo.

For the past five years Amnesty International had repeatedly urged the authorities to improve respect for human rights in Mexico. The present administration has the opportunity to reverse past patterns of abuse. Amnesty International urges the Mexican Government to take steps to ensure full respect for human rights before the year 2000. A first step would be to implement the recommendations included in this report.

RECOMMENDATIONS

1. Prevention of arbitrary arrest

- Arrests should only be authorized in the case of *flagrante delicto* or where a judicial warrant exists; authorization in the absence of these conditions should not be granted on the pretext that no judge was available.
- All arrests should be carried out under strict judicial control and only by authorized personnel.
- Law enforcement officials should adequately identify themselves and present arrest warrants at the time of arrest.
- Everyone should be informed, at the time of arrest, of the specific reasons for their arrest.
- All detainees should also receive an oral and written explanation, in a language they understand, of how to avail themselves of their legal rights, including the right to lodge complaints of ill-treatment.
- The government should preclude the armed forces from participating in domestic law-enforcement activities. They should be prohibited from arresting, holding in custody or interrogating civilian detainees.
- Failure to adhere to these safeguards should lead to the discipline or bringing to justice of those responsible.

2. Prevention of incommunicado detention and "disappearances"

- All detainees should be brought before a judge promptly after arrest, and within the period stipulated by law.

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- The government should oversee the effective elimination of the use of so-called "punishment cells" and other measures conducive to cruel, inhuman and degrading treatment in all the country's prisons.
- All detainees should have access to relatives and lawyers promptly after arrest and regularly throughout their detention or imprisonment.
- The government should ensure the provision of effective legal assistance, free of cost, to all defendants without resources, as from the moment of detention. In addition, interpreters should be provided for all non-Spanish speaking defendants, without exception, during all stages of criminal proceedings.
- Relatives should be kept informed of the detainee's whereabouts at all times.
- Rulings which result from a petition of *recurso de amparo* on cases of detention, including unacknowledged, irregular or arbitrary detention, should be effectively enforceable throughout Mexico.
- Detainees and prisoners, either under civilian or military jurisdiction, should be held only in official, known detention centres and prisons, a list of which should be made available to the public.
- Every detention centre should be required to keep a detailed up-to-date record, bound with numbered pages, of the time of arrest and the identities of those who carried out the arrest, as well as the time the detainee appeared before the public ministry, and before the judicial authority.

3. Strict controls over interrogation procedures

- Interrogation of detainees or criminal defendants should take place in the presence of a lawyer to ensure that statements taken in evidence from a detainee are given freely and not as a result of any form of coercion.
- In addition to a lawyer, a female officer should be present during interrogation of women detainees.
- Children should only be questioned in the presence of a parent or next of kin.
- The date, time and duration of each period of interrogation should be clearly recorded, as well as the names of all those present during interrogation. These records should be open to judicial scrutiny and to inspection by lawyers and relatives of detainees.
- The government should publish current guidelines of interrogation procedures and periodically review both procedures and practices, inviting submissions and recommendations from civil rights groups, defence lawyers, bar associations and other interested parties.

4. Separation of the authorities responsible for detention and interrogation

- There should be a clear and complete separation between the authorities responsible for detention and those responsible for the interrogation of detainees. This would allow an agency not involved in

interrogation to supervise the welfare and physical security of detainees.

- The role of the public ministry, which is currently responsible for arrest, interrogation and prosecution in criminal proceedings, should be thoroughly revised accordingly, in order to ensure full respect of all Constitutional rights of detainees and criminal defendants under their responsibility, including the right to a fair, prompt and impartial trial. A special office, with jurisdictional powers and independent from the Attorney General's, should be established to guard against, and investigate, abuses by the federal and state public ministry.

5. Prohibition of the use of confessions extracted under torture

- Confessions obtained as a result of torture, ill-treatment or other forms of coercion, should never be admitted in legal proceedings, except as evidence against the perpetrators.

- Defendants who were convicted on the basis of coerced confessions should have their convictions promptly reviewed.

6. Implementation of judicial safeguards

- The government should continue to implement effective reforms to the administration of justice, with regard to the codes of procedure, the provision for appeal mechanisms and the selection, training and supervision of appropriate personnel, in order to ensure every defendant's right to fair, prompt and impartial trials.

- Respect for the presumption of the detainee's innocence shall be demanded as from detention and throughout the judicial proceedings.

- Judges should be vigorous in examining the legality of detention and the physical condition of defendants, and in investigating all claims of torture.

- International standards pertaining to the judiciary, including those contained in the UN Basic Principles on the Independence of Judiciary, should be incorporated in Mexican law and legal practice in the interests of a genuinely independent, impartial and effective judiciary. Allocation of resources should be increased accordingly, while all allegations of corruption, particularly those enhancing human rights abuses, should be promptly and impartially investigated.

7. Implementation of judicial supervision of detention

- Any form of detention or imprisonment and all measures affecting the human rights of a detainee or prisoner should be subject to the effective control of a judicial authority.

- The government should take particular care to ensure that detainees who are vulnerable for reasons of age or gender are not tortured, ill-treated or harassed.

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- The confinement of children in prisons for adults should be strictly prohibited.
- All detention centres should be visited and inspected regularly by representatives of an independent body. These inspectors should conduct their visits without advance warning.
- Any detainee or prisoner should have the right to communicate freely and in full confidentiality with the inspectors. The inspectors should have unrestricted access to all relevant records and should be authorized to receive and deal with detainees' complaints.
- The inspection body should prepare detailed reports on the findings of each visit, and should ensure that appropriate action is taken to remedy all shortcomings relating to the treatment of detainees and prisoners.
- The inspection body should also make recommendations for improving conditions of detention in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners.

8. Adequate medical safeguards for detainees and prisoners

- An independent and well-resourced medical examiner's office should be established, with administrative autonomy, to provide forensic expertise at a national level.
- Medical examinations should be provided to detainees and prisoners on a regular basis and should be performed by independent professionals under the supervision of a professional association, in accordance with the following principles:
 - A medical examination should be carried out on each detainee promptly after arrest and before interrogation.
 - Detainees should be medically examined every 24 hours during the period of interrogation; on a frequent and regular basis throughout detention and imprisonment; and immediately before transfer or release.
 - These examinations should be performed personally by the authorized doctor, who should explain to the detainee the importance of having a full and contemporary record of his or her condition.
 - Detainees should be informed of the importance of these medical examinations in the written notice of their rights.
 - Examinations should be carried out in private, exclusively by medical personnel, providing adequate safeguards for the examination of women prisoners.
 - Each detainee should have access to a medical officer at any time on the basis of a reasonable request.
 - Detailed medical records on detainees should be kept including: weight, state of nutrition, visible marks on the body, psychological state and complaints about health or treatment received.

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— These records should be confidential but should be communicated, at the request of the detainee, to a legal advisor, his or her family, or the authorities charged with investigating the treatment of prisoners.

— Each detainee should be entitled to private examinations by his or her own doctor at the request of the detainee or the detainee's lawyer or family.

- The medical examination of alleged victims of human rights abuses should only be conducted in the presence of independent witnesses: a health professional designated by the family; the legal representative of the victim; a professional designated by an independent medical association, or a human rights monitoring body, including NGOs.

- Forensic doctors should be provided with the training and resources necessary for the diagnosis of all forms of torture and ill-treatment.

- In all cases of deaths in custody, forensic investigations should conform to international standards including the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.

9. Effective criminal investigation of every report of torture and other gross human rights violations

- All reports of suspected torture or other gross human rights violations, including "disappearances" and summary, extra-judicial and arbitrary killings, should be promptly, thoroughly and impartially investigated. Criminal investigations into such reports should be held by officials fully independent from those under investigation.

- All cases where detainees allege that their confessions were extracted under torture should be investigated, independently from the complainants ability to prove torture, which frequently leaves no physical traces. The burden should be on the detaining and interrogating authorities to prove that the confession was voluntary and that torture and ill-treatment did not occur. Adequate preventive measures, including those recommended above, should be established accordingly.

- The investigating authority should have: the power to obtain all information necessary to the inquiry; adequate financial and technical resources for effective criminal investigations; and the authority to oblige those accused of torture to appear and testify.

- Any government official, including military personnel, who suspects that torture or other human rights violations has been committed should report it to the relevant authorities, which should fully investigate all such reports.

- The absence of a complaint by the victim or relatives should not deter investigation.

- The involvement or complicity of health professionals in the torture and ill-treatment of detainees, or other serious human rights violations, should be thoroughly and impartially investigated. Very strict disciplinary sanctions, independent from corresponding criminal proceedings, should be instituted against medical personnel found to have breached the UN Principles of Medical Ethics.

10. Bringing all those responsible to justice

- Any government official, independently of his or her hierarchy, who is responsible for torture; "disappearances"; summary, extra-judicial or arbitrary killings, or for ordering, encouraging or condoning these practices, should be brought to justice.
- Any official charged in connection with the above-mentioned crimes should be immediately suspended from duties directly related to arresting, guarding or interrogating detainees. If convicted, they should be automatically dismissed from duty, in addition to whatever other punishment is imposed by the court.
- The crime of torture and other gross human rights violations, such as "disappearances" and summary or extra-judicial killings, should not be subject to any statute of limitations.
- Any decision to suspend or dismiss state officials accused or convicted of human rights violations will be made public.
- An effective information system will be set up to prevent state officials dismissed for human rights violations from being reassigned to similar posts in other jurisdictions or departments.

11. Full respect and effective protection of human rights defenders, and of victims and witnesses of human rights violations

- The government should ensure that all necessary measures are adopted to effectively prevent attacks or threats against any human rights defender, including NGOs, in Mexico. Those responsible for threatening or attacking their work should be promptly brought to justice, and appropriate compensation should be provided for the damage caused.
- Special and effective protection should also be guaranteed to victims of human rights violations and their relatives, to witnesses to human rights violations, or any other person seeking redress or compensation for such crimes.

12. Compensation for victims of torture and other gross human rights violations

- All victims of torture should receive medical treatment and rehabilitation where necessary, and financial compensation commensurate with the abuse inflicted.
- In cases where a detainee's death is shown to be the result of torture or other gross human right violations, including summary, extra-judicial and arbitrary killings, the deceased's relatives should receive prompt compensatory and exemplary damages.

13. Promoting respect for human rights

- An absolute prohibition of torture and ill-treatment as crimes under domestic law should be visibly displayed in every detention centre in the country.

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- The government should adopt and publish a code of conduct for all law enforcement agents who exercise powers of detention and arrest. This code should conform to the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- In addition to categorically prohibiting the use of torture and ill-treatment, the corresponding penal code should ensure that law enforcement agents oppose the use of torture or ill-treatment, if necessary by refusing to carry out orders to inflict such treatment on detainees, and report any such abuses of authority to their superior officers and, where necessary, to the authorities vested with review or remedial powers.
- Breaches of the code should result in specified disciplinary sanctions and criminal prosecution of the agents involved.
- The government should ensure that all law enforcement agents and members of the armed forces receive adequate training on human rights standards, both domestic and international, and the means for their protection.
- Recommendations from governmental human rights watchdogs, such as the National Human Rights Commission and its counterparts in every state and the Federal District, should be promptly and effectively implemented by the corresponding authorities. Failure to do so should hold them accountable to jurisdictional authorities.
- The Mexican Government should continue to ensure tax-exemption for non-profit-making NGOs, including civil associations, working on behalf of the promotion, documentation and protection of human rights in Mexico.

14. Compliance with international human rights law

- Domestic law and practice should fully conform with international human rights instruments including human rights conventions ratified by Mexico, as well as the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.
- Accordingly, the government should ensure the effective implementation of the Federal Law to Prevent and Punish Torture, in full compliance with Mexico's obligations under the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

15. Recognition of international procedures for human rights protection

- The government should ratify the (First) Optional Protocol of the International Covenant on Civil and Political Rights, which allows individuals who have exhausted all domestic legal remedies to submit a written complaint to the UN Human Rights Committee alleging that their rights under the Covenant have been violated.

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- The government should declare, under Article 22 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, that it recognizes the full competence of the UN Committee against Torture to investigate complaints of human rights violations lodged by individuals who have exhausted all domestic legal remedies.
- The government should recognize the jurisdiction of the Inter-American Court of Human Rights over all matters relating to the interpretation or application of human rights safeguards contained in the American Convention.

16. Effective investigations into the "detained-disappeared"

- The government should press ahead with investigations under way into cases of forced "disappearance" where the victims are still "disappeared", with the aim of bringing to justice those responsible and clarifying the fate of the victims.
- The government should sign and ratify the Inter-American Convention on the Forced Disappearance of Persons, adopted by the Organization of American States in June 1994.

17. Protection of the rights of migrants and possible refugees

- The government should create effective mechanisms to guarantee that possible refugees can be assessed and categorized as such.
- The authorities should create effective control mechanisms in detention centres for illegal immigrants in order to prevent the use of cruel, inhuman and degrading treatment against them.
- The government should ratify the UN Convention relating to the Status of Refugees and the Optional Protocol to this Convention.