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Universal Periodic Review of Mexico 2013:

Briefing on the Situation of Human Rights Defenders

Peace Brigades International (PBI) is a grassroots organization founded in 1981 that promotes nonviolence and provides protective accompaniment to human rights defenders threatened by political violence. Since 2000, PBI has accompanied Mexican human rights defenders (HRDs) to enhance their efforts in promoting equality, social justice and respect for human rights.

In 2009, Mexico received 8 recommendations which suggested measures to improve the situation of risk faced by HRDs. All of them were accepted. Four years after, the fulfilment of these recommendations has been mixed. Whilst some progress has been observed, HRDs continue to face threats and attacks which remain in impunity. **Through this briefing, PBI aims to summarize the level of compliance of the Mexican State with its 2009 UPR recommendations related to HRDs.** The conclusions reflect the analysis of HRDs collected by PBI during its exploratory mission of 2012¹ and round tables of 2013:² that the major obstacles to HRD participation in Mexico are defamation, impunity, a lack of adequate protection and a lack of dialogue and consultation. **PBI considers it vital that the international community follow up on these recommendations as HRDs remain at risk due to their work.**

1. Recognition

2009 recommendation: The United Kingdom recommended that Mexico publicly recognise the important role that HRDs and non-governmental organisations play in the protection of human rights.

Compliance status: There has not been a policy of systematic public recognition about the importance of HRD in Mexico. Enrique Peña Nieto's new government has made some public discourses acknowledging the work of particular individuals or recognizing the need for a

1 PBI Mexico, *Panorama de la Defensa de los Derechos Humanos en México: Iniciativas y Riesgos de la sociedad civil Mexicana*, April 2013, online resource: http://www.pbi-mexico.org/fileadmin/user_files/projects/mexico/files/PBI_Publications/diagnostico-pbi-digital.pdf

2 PBI Mexico, "PBI launches its new report at round tables for HRDs, Mexican authorities and the diplomatic corps", 08/04/2013, online resource: www.pbi-mexico.org/field-projects/pbi-mexico/news/news/?no_cache=1&tx_ttnews%5Btt_news%5D=3804&tx_ttnews%5BbackPid%5D=2167&cHash=159c9e89040166da358574c19fa98802

Over the past four years, several Mexican organisations have documented an increase in the number of violations against HRDs, the majority of which are carried out by State officials. HRD still suffer high levels of assassination, disappearance, harassment, surveillance, threats, attacks, arbitrary detentions and criminalization⁹. PBI's analysis suggests that the continuing impunity, in which crimes against HRDs are taking place, is one of the principal reasons for which the number of crimes against this population continues to rise: there is simply no judicial cost to attacking activists who inevitably threaten the interests of human rights violators.

According to ACUDEH, 203 violations against HRDs were registered between 2009 and 2010 and 235 for 2011 and the first semester of 2012¹⁰. The *Ombudsman* of Mexico city also registered 260 aggressions against HRD in 2012 and alerted that numbers reported for January/February 2013 had doubled in comparison to those recorded for the same two months in 2012¹¹. The National Commission for Human Rights (*Ombudsman*) published that between 2005 and 2011 the number of complaints for violations against HRD had increased by 128%¹². Since 2009, PBI has observed numerous attacks and threats against HRD. Accompaniment requests have increased steadily over the past years, demonstrating that despite the recommendations made in 2009 to Mexico, HRD are vulnerable to attacks and have to work in insecure conditions¹³.

3. Protection

2009 recommendation: Norway recommended to Mexico to increase the effectiveness of the precautionary measures to protect HRDs, including via the adoption of effective and comprehensive prevention strategies, at central and local levels, to prevent attacks and protect the life and physical integrity of HRDs, ensuring that such programs be backed by a strong political commitment and provided with adequate resources. In the same vein, Germany recommended to increase the effectiveness of the precautionary measures to protect HRDs.

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- 9 Supra note 7. See also infra note 5 and the following reports: EDUCA, *Diagnostico de Agresiones a Defensores y Defensoras Comunitarios*, Oaxaca (Dec.2012); ASS, Consorcio para el Diálogo Parlamentario y la Equidad Oaxaca y Red Mesa de Mujeres de Ciudad Juárez, *Defensoras de Derechos Humanos en México: Diagnóstico 2010-2011 sobre las Condiciones y Riesgos que Enfrentan en el Ejercicio de su Trabajo*, Mexico (2012); CENCOS, *Agresiones a defensores y defensoras de derechos humanos en México, Enero-Junio del 2011*, México, 2011
- 10 ACUDEH, *Informe de violaciones de derechos humanos cometidas contra las personas defensoras de los derechos humanos en el periodo 2011 – Primer trimestre de 2012*, México (2012)
- 11 CDHDF, “Preocupante incremento de agresiones contra personas defensoras de derechos humanos”, Press release 74/2013 (30/3/2013) online resource: <http://www.cd hdf.org.mx/index.php/boletines/3028-boletin-742013> and CDHDF, “En 2012 se registraron 260 agresiones a defensoras y defensores de derechos humanos: CDHDF”, Press release 497/2012 (25/12/2012) online resource: <http://www.cd hdf.org.mx/index.php/boletines/2923-boletin-4972012>
- 12 CNDH, *Informe Especial sobre la situación de las y los defensores de los derechos humanos en México*, Mexico (2011), online resource: <http://www.cndh.org.mx/sites/all/fuentes/documentos/Index/20110706.pdf>
- 13 PBI Mexico, “PBI Mexico expands international accompaniment to northern states of Mexico”, 06/11/2012, online resource: [http://www.pbi-mexico.org/field-projects/pbi-mexico/news/news/?no_cache=1&L=2%3F%3F%3F%3F%3F%3F%3F%3F%3FL%3D0%3FL%3D0&tx_ttnews\[tt_news\]=3656&cHash=c229525c6e443bffbdc5d587e7cef4c1](http://www.pbi-mexico.org/field-projects/pbi-mexico/news/news/?no_cache=1&L=2%3F%3F%3F%3F%3F%3F%3F%3F%3FL%3D0%3FL%3D0&tx_ttnews[tt_news]=3656&cHash=c229525c6e443bffbdc5d587e7cef4c1)

Belgium, meanwhile, recommended to set up structural measures that would address systematically violence and violation of fundamental rights of which HRDs are victims.

Compliance status: this is the recommendation where the Mexican legislature has made a concerted effort. In 2010, the concerning rates of attacks against HRD and the incapacity of the Mexican State to implement the protection measures granted by the National and State Human Rights Commissions or the Inter-American Human Rights System motivated the development, by civil society, of a proposal for a Protection Mechanism. After years of discussions and debates, and based upon the civil society proposal, the Law for the Protection of HRDs and Journalists was finally approved in 2012 and the Interior Ministry created a Protection Mechanism for HRDs and journalists¹⁴. PBI welcomed this effort and the resulting law.

Although the law has been backed by civil society, the Mechanism has not yet been properly implemented by the executive. In particular, the Mechanism lacks properly trained staff, clear and approved rules regarding the management of its resources, and a guaranteed efficient and sensitive response. The Unit for Prevention, Follow-up and Analysis is yet to be installed and several state level governments are yet to sign the collaboration agreements. In this context, coordination between the federal and state level is still ineffective and does not systematically work. Protection measures are not fully nor timely implemented¹⁵.

4. Dialogue and consultation

2009 recommendation: Norway and Panama recommended that Mexico establish an effective dialogue with civil society organisations to follow-up, implement and monitor the fulfillment of the UPR recommendations.

Compliance status: Civil society organisations have complained of the lack of a broad and profound human rights dialogue between the Mexican state and HRDs over the past four years¹⁶. The State has maintained dialogues with the Movement for the Peace with Dignity (social movement of victims which emanates as a consequence of the governmental militarized strategy of security) and with the principal human rights NGOs in Mexico City for the enacting of the Protection Mechanism for HRDs and journalists. However, no large and inclusive dialogue has been held on the general human rights situation or on the national security strategy. Consultation lacks particularly in land rights and natural resources issues¹⁷. HRDs

14 PBI Mexico, "Briefing on the Mechanism for Human Rights Defenders and Journalists", Dec. 2012, online resource: http://www.pbi-mexico.org/fileadmin/user_files/projects/mexico/files/Mechanism/121201BriefingMechanismPBIe.pdf

15 This has been recently denounced by 73 organizations : Red TdT, «Llaman OSC a parar las agresiones contra personas defensoras de derechos humanos», 5th April 2013 (http://www.redtdt.org.mx/d_comunicados.php?id_comunicado=1436&descargable)

16 See the statement issued by several NGOs during the 5th EU-Mexico Civil Society Forum in Brussels (25/10/2012):http://eeas.europa.eu/mexico/civil_society/conference2012/docs/2013_pronunciamiento_mex_csos_es.pdf

17 PBI Mexico, "Undermining The Land: the defense of community rights and the environment in Mexico", Bulletin n°31, November 2011, p.6, online resource: http://issuu.com/peacebrigadesinternational/docs/bulletin_31_undermining_the_land_november_2011/1 and PBI Mexico, "Alba Cruz: The communities will lose their source of food and work. Opposition to the wind project in San Dionisio del Mar", Interview n°28, 25/03/2013, online resource: <http://www.pbi->

working on these themes are especially susceptible to defamation, criminalization, undue processes of law and attacks by non-state armed groups¹⁸.

5. Suggested recommendations:

As demonstrated by this short analysis, HRD protection is far from effective in Mexico and Mexico has not complied effectively with its 2009 UPR recommendations. PBI considers it urgent that the Mexican State guarantee the security of HRDs. Recommendations following up on this issue must be carried out in the next UPR of the country (to be held on October 2013). Given that HRDs continue to identify the same factors putting them in risk and closing their spaces for participation as the international community identified in 2009, we suggest that recommendations be made to follow-up those accepted by Mexico in the previous review.¹⁹

Unless HRDs have sufficient political space and safety guarantees to be able to promote social change, Mexico's democratic transition will be seriously compromised. In view of these circumstances, PBI suggests the following recommendations:

- Mexican President and each Governor should recognise, via a public statement, (1) the important role that HRDs have to play in a democratic Mexico, (2) the situation of risk which they live in due to their activities, and, (3) the responsibility of their government to protect. They should make clear public statements along these lines each time a HRD is attacked or threatened.
- Promptly and effectively investigate, prosecute and punish attacks and threats against HRD, no matter the nature of the perpetrator (State or non-state actors). Avoid criminalizing HRDs as stated in the UN Resolution A/HRC/RES/22/6.
- Ensure the effective implementation of the protective measures already authorised to HRDs and develop indicators to evaluate the protection measures performance.
- Ensure an effective and timely implementation of the Protection Mechanism for HRD and journalists; urge State entities to collaborate with the Federal Level in this implementation. Ensure the mechanism has enough funds and trained human resources to operate. Ensure that protective measures are based on an accurate risk assessment that considers gender and ethnic specificities. Ensure that protective measures are promptly carried out.
- Open effective communication channels with Mexican civil society organisations to dialogue about human rights.
- Ensure consultation and participation of HRDs in the development of proposals and in any procedures undertaken by State and companies before and during investment projects affecting communities.

mexico.org/fileadmin/user_files/projects/mexico/files/PBI_Publications/Alba_Cruz_%E2%80%9CThe_communities_will_lose_their_source_of_.pdf

18 EDUCA, supra note 9

19 Supra notes 1 and 2.