

Mexican human rights organizations' campaign logo for the Universal Periodic Review

México ha sido evaluado



Un país sin derechos humanos...
no es democrático

Mexico was evaluated

A country without human rights ... is not democratic



Peace Brigades International
Mexico Project

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Editorial

During 2009 Mexico has been subject to a high level of attention at the international level. The United Nations Human Rights Council, in the context of the UPR, has carried out a first review of the respect of fundamental rights in this country. United Nations bodies, non-governmental human rights organisations, the Mexican government and its National Human Rights Commission as well as 56 states from the international community have all participated in the review. The UPR process has demonstrated the coordination of Mexican and international human rights organisations, who have realised diverse analyses on the situation of civil, political, economic, social and cultural rights. PBI Mexico has played an active role by taking our concerns for the security of Mexican human rights defenders threatened by their work to various states.

The UPR process shows that serious attacks have been identified on the most basic rights of women, children, farmers, indigenous people, migrants, low-income social sectors as well as journalists and human right defenders. The review highlights concerns regarding the weaknesses of the justice system

that favour a climate of impunity. In addition, many observations were made about corruption, arbitrary actions, abuse of authority, and impunity that beleaguer state security forces and many public institutions.

The Mexican government, to confront these problems, has accepted a series of recommendations that they have promised to put into practice through public policies and legislative initiatives. Specifically, the National Human Rights Programme, in force for the 2008-2011 period, is foreseen as the instrument that will implement the majority of these recommendations. The result of these efforts will finally be evaluated in 2012, during Mexico's next UPR. In the meantime, international civil society (states, non-governmental institutions and human rights organisations) will follow up on the government's commitments and their degree of implementation.

Since PBI began accompaniment work in Mexico, the state of Oaxaca has been considered one of the areas where an international presence is required, essentially due to the expressive needs of civil society organisations themselves. For several years PBI has carried out visits, accompaniments and training workshops in protection and security, in response to these petitions. For this, we have maintained a constant dialogue with state authorities and have highlighted many of the human rights issues related to Oaxaca in our publications. In October 2008 PBI Mexico opened a new office in the city of Oaxaca with the aim of responding better and more continually to these petitions.

This bulletin provides further analysis on the impact of drug trafficking on the work of human rights organisations. We also interview Tita Radilla, vice-president of AFADEM, and her brother Rosendo Radilla after testifying before the Inter-American Court of Human Rights on behalf of the disappeared from the "Dirty War" in Mexico, and report on the speaking tour in the United States and Canada with Tita Radilla together with human rights defenders from Colombia and Guatemala.

The publication opens with a brief overview of the present human rights situation in Guerrero, information on the recent constitutional reform on human rights, and the results of the Mexican elections from July. ■



From left to right Vidulfo Rosales (Tlachinollan), Edgar Cortés (National Human Rights Network All Rights for All), Madeleine Penmann (Miguel Agustín Pro Juárez Human Rights Center) and Cristiane Schulz (Diakonie Germany) in front of the Office of the United Nations High Commissioner for Human Rights

Guerrero: Worrying climate of violence against human rights defenders and new accusations against army personnel

Human rights defenders in Guerrero have been subject to a series of violent acts in 2009. Guadalupe Castro and Margarita Martín, widows of the murdered leaders of the Organization for the Future of the Mixteco people (OFPM), have been threatened in order to stop their demands for justice. Margarita Martín survived a murder attempt on 24th June.¹ Members of the Organisation of Indigenous Me'phaa People (OPIM) continue to suffer threats.² Rommel Cain Chacan, a lawyer from the Civil Monitor of Police and Public Security Forces in the La Montaña region of Guerrero, suffered intimidations and death threats, along with his family members, on June 5th and 7th. The Inter-American Court of Human Rights, on 30th April, granted provisional measures to 107 human rights defenders, in the most part indigenous people, including members of the OPIM, OFPM and Tlachinollan. Amongst them are Margarita Martín and Rommel Chacan, recently threatened against. They are starting to question the way in which these protection measures are being implemented. The Court deems the Mexican state responsible for protecting the life and integrity of these people who are seen as being exposed to a real and imminent danger.

The attacks against defenders occur in a context in which accusations of violent acts are being made by civilians against the Mexican army. On the 20th June, an army unit carried out a routine check of a bus from the Tlapa municipality, detaining Fausto Saavedra, an indigenous Me'phaa man, who they accused of unauthorized use of official insignias for wearing military-type boots. Immediately afterward the soldiers fired on the bus causing the death of Bonfilio Rubio. Recently, the Civil Police Monitor assumed the

defense of these cases.³ On 13th June, an observation mission, made up of the Guerrero State Human Rights Commission (Coddehum) and representatives of various civil society organisations, visited communities in the Petatlán Sierra in order to investigate accusations of human rights violations during military operations. Between June 9th and 13th, around 500 elements of the armed forces carried out operations in three communities belonging to the municipality of Coyuca de Catalán, in the Petatlán Sierra, with a population of approximately 100 inhabitants. The alleged objective was to detain members of the Insurgent People's Revolutionary Army (ERPI) that supposedly lived in the area. The inhabitants fled their homes amid shots fired by the army. The observation mission documented the torture of a 33 year-old man and a 14 year-old boy, the armed interrogation of an 8 year-old, physical abuse of women and children unable to flee, threats to set fire to and looting of homes.⁴

Proposed reform of the Mexican Constitution's human rights content

The Mexican Senate is currently examining a proposal already passed by Congress that would reform various parts of the Mexican Constitution regarding human rights. This reform modifies the terminology of the Constitution recognising the rights and guarantees of citizens. The international human rights treaties, ratified by the state, could be invoked before Mexican tribunals. After close examination of the reform, Mexican human rights organisations and the UNHCHR have determined that it is lacking in several areas, and have expressed these concerns to several Senators. Amongst them, the bill picks up on the "principle of constitutional non-contradiction". This principle implies that the Constitution is the applicable norm

even though it provides less protection than a right backed up by international treaties. The reform doesn't include the obligation of the state to give reparations to victims of human rights violations, something widely recognised in international legislation on fundamental rights. Regarding the process of expulsion from the country of non-Mexican persons, the reform bill gives them the right to be heard by an administrative authority, but not by a competent judge.⁵

The Institutional Revolutionary Party (PRI) gains the most votes in July 5 Mexican Elections

On July 5th federal elections in Mexico took place to elect 500 members of the Mexican Congress. At the same time state and municipal elections also took place to elect six governors, 549 mayors and 433 local legislators. Of the 77 million people eligible to vote, 44.6% did so, with more than 55% abstaining. On July 11th, provisional results were published by the Federal Electoral Institute of Mexico (IFE) giving the winner of the elections as the Institutional Revolutionary Party (PRI) who returns as the majority force in parliament.

In Guerrero, voter abstinance reached 67.62%. In Oaxaca, abstinance was at 57.6%.⁶

Provisional results		
PRI – in alliance with the Green Party (PVE)	PAN – National Action Party	PRD – Party of the Democratic Revolution
237 (PRI) + 22 (PVE)	143	71

1 UNHCHR, Press Release 26 June 2009, Amnesty International, Urgent Action, 41/033/2009, 11 June 2009.

2 Article from La Jornada Guerrero, 8 June 2009.

3 Tlachinollan Human Rights Center, New Threats against the Guerrero Civil Police Monitor, 7 July 2009.

4 Amnesty International, Urgent Action, 41/031/2009 22 June 2009.

5 For more information consult the All Rights for All National Network (REDTdT), the Miguel Agustín Pro Juárez Human Rights Centre or the UNHCHR in Mexico

6 Sur de Acapulco and ADN Sureste, 10 July 2009. Jornada Guerrero, 11 July 2009

The Universal Periodic Review

The Universal Periodic Review, UPR, is a working mechanism of the United Nations Human Rights Council, put into place for the first time in March 2008.¹ The Human Rights Council was created by resolution 60/251 on 15th March 2006 by the UN's General Assembly. Its basic mandate is to promote and protect respect for human rights in all countries.

Over a period of four years, the Human Rights Council reviews the level of compliance of international commitments on human rights in every one of the UN's 192 member states. This exercise takes as its criteria for analysis the respect of the Universal Declaration of Human Rights², the United Nations Charter³ and the international treaties and agreements on human rights subscribed to by each state. Each year 48 states take part in the review, examined in groups of 12 during meetings that take place in Geneva, normally in the months of February, May and December.

The running of the UPR mechanism is being coordinated by a working group integrated from the 48 member states of the Human Rights Council. To facilitate each of the reviews, a "troika" is assigned to each country under examination, composed of three countries from the Council and from different regional groups (Asia, Africa, Latin America etc.). The troika prepares, amongst other duties, the acts of each UPR exercise, in coordination with the state under review. The chosen countries can refuse to be part of the troika. The state that is under examination can also reject one of the assigned countries of the troika.

Its nature and way of functioning means that the UPR process is driven by states. Government representatives have repeatedly signalled that the basic criteria of the mechanism are openness, tolerance, cooperation and consensus building. They have also indicated that the UPR must be understood as a way of sharing "good practices" on human rights issues.

The Process:

The process begins with compiling and evaluating relevant information on the human rights situation, which is then used to make the necessary recommen-

datations. Three reports are presented in preparation for the UPR. One of them is prepared by the state under review. Human Rights Council Resolution 5/1 of 18th June 2007 (paragraph 15a) states that each country must consult with representatives from civil society before presenting their report. The UN Office of the High Commissioner of Human Rights, UNHCHR, presents two reports, each of which is 10 pages in length. One of the reports compiles the recommendations and conclusions formulated by the different United Nations bodies for the state under review. The other offers a summary of the reports taken from civil society organisations and public human rights bodies of the country in question. The reports can be seen on the UNHCHR website.

In an interactive forum of three hours, which can be followed by "web cast" on the internet, different states make comments and formulate questions and recommendations to the state under review. The state may dedicate, if so desired, one of the three hours to its presentation and to answering the questions of other countries. During the following days a draft of the final report is presented where, if the state wants to, a list of accepted recommendations and those being considered can be drawn up. Another option is to publish a list of all the recommendations. The state can then indicate which it accepts and which it rejects at a later date.

In the following session of the Human Rights Council the draft report is presented, debated and approved in an interactive forum lasting an hour. This time is divided into 20 minute periods each for a) the state b) the other Council states or United Nations bodies and c) representatives from civil society organisations accredited with the United Nations, and human rights bodies from the country in question. Up until now, the United Nations bodies have not used their right to intervene during the approval phase of the periodic review drafts.

The last step of the process consists of monitoring the implementation of the recommendations contained in the final report. Here it is hoped for an active participation from civil society. This aspect of the procedure is still to be fully defined.⁴ ■

1 A/HRC/RES/5/1

2 *The Universal Declaration of Human Rights was adopted by the United Nations General Assembly in its Resolution 217 A (III), on 10th December 1948.* <http://www.un.org/spanish/aboutun/hrights.htm>

3 The United Nations Charter, put into place on 26th June 1945, is the founding international treaty of the organisation, which acts in effect as its constitution. <http://www.un.org/en/documents/udhr>

4 For a detailed analysis of the risks and opportunities that the UPR process offers, as a way of encouraging the respect for human rights, we cite the analysis elaborated by Theodor Rathgeber from the Friedrich Ebert Foundation, from which we have extracted a good part of the information in this article. <http://library.fes.de/pdf-files/bueros/genf/05479.pdf>



Secretary of the Interior of Mexico, Fernando Gomez Mont during the UPR on February 10, 2009

Mexico's Universal Periodic Review

The Preparation

In preparation for the UPR, the Mexican government, along with 17 human rights organisations from Mexican and international civil society as well as the Mexican National Human Rights Commission submitted various reports, compiled into one document, to the UNHCHR. Equally, reports from several United Nations bodies were systematized into a unique document.¹ PBI did not draw up their own document but did sign as an observer on one of the reports sent by more than 100 Mexican and international organizations. PBI also worked actively so that the issue of security for human rights defenders was dealt with during the review. A three-party group made up of South Africa, Pakistan and Nicaragua led the process. The group brought together recommendations from various countries and the contributions of the representatives of the Mexican state to present the draft for the final report on February 13th.

The level of respect in Mexico for the fundamental rights taken from the Universal Declaration and international human rights treaties was reviewed on 10th February 2009.² During a three-hour session at the headquarters of the United Nations Human Rights Council in Geneva, 56 countries presented 93 recommendations, of which the Mexican state accepted 83. In February, Mexico delayed the decision to accept 8 recommendations that have to do with the dubious compatibility of the practice of *arraigo*³, the definition of organized crime according to international treaties, the reopening of the Special Prosecutor's Office

for the Investigation of Past Crimes and the competence of the military justice system to try cases where civilians are involved. Since then, by means of a written report during the Council session on 11th June 2009, Mexico announced its final position regarding the recommendations. In relation to the military justice system, the practice of arraigo and the legislation on organized crime, Mexico defended their current model, rejecting suggestions it contributes to human rights violations. With regards to the investigation of crimes of the past, Mexico pointed out that this investigation has now been entrusted to the Attorney General's Office.

During the review, the states representing the international community raised a wide variety of issues to which questions were posed and recommendations made. Numerous calls were made for the urgent necessity to harmonize Mexican guidelines with international standards of human rights and to end the impunity that protects those who violate fundamental rights. Several states recommended measures to end abuses in the use of force by police bodies and to end the impunity that permeates the rights violations committed by the military. The context of impunity was linked to the application of military jurisdiction in trying cases where civilians are involved. At the same time recommendations were made to end human rights violations in prisons, the practice of torture by the security forces and the violation of the right to protest.

More than 20 countries raised questions and made recommendations

regarding the discrimination and violence against women as well as the absence of effective legislation and lack of results in the investigation of these crimes. Eleven states expressed their concern and made recommendations with regards to the violence against journalists and media workers in Mexico whilst a further six states recommended different measures to protect and strengthen the work of human rights defenders.

Referring to the rights of indigenous people, appeals were submitted to normalize Mexican standards in line with international treaties as well as granting better respect for their rights, cultures and traditions. Furthermore the lack of consultation of communities affected by so-called "mega development projects" was questioned. Other problems raised in the session included the poverty and economic inequality present in Mexico, the deficiencies in terms of health, housing, education and child's rights and the situation of temporary migrant workers and Mexico's migrant population in general.

The approval of the final report – disagreement on the recommendations initially deferred

During the June 11th session, the Mexican delegation made a speech and sent the Council a document with comments on the recommendations proposed on February 10th. Mexico pointed out the existence of a constitutional reform plan in human rights, currently before the Mexican Senate, that proposes the full constitutional recognition of international treaties ratified by Mexico.⁴ They also highlighted the legal reforms from the period of March to June that, together with the acceptance of the recommendations made by the National Human Rights Commission to the Mexican army; they claim have ensured the army abuses are not left in impunity. The government reiterated that an appeal guarantees that a civil court can revise a sentence issued by a military court. The legality of the arraigo system was insisted upon, shown by the supervisory function of "control judges". The Mexican government considered that the definition of organized crime found in the constitution conforms to the International Palermo Convention and remarked that the investigation into past crimes has been carried by the Attorney General's Office, who recently embarked on several excavations in search of human remains. Ten NGOs from Mexican and international civil society



Event organized by Mexican human rights organizations in Geneva as part of the UPR, February 10, 2009

were able to make two minute speeches in each case. They criticized the position of the Mexican government in relation to the recommendations initially deferred such as the use of the system of arraigo, the definition of organized crime in Mexico, the crimes of the past and the military justice system. They pointed out that the human rights abuses of civilians by the military tried in military courts remained for the most part in impunity. They disagreed with the statement by the Mexican government that all military court resolutions are referable to the civil justice system and reminded those present of the lack of possibility of appeal when faced with not guilty verdicts issued by the military courts. The issue of impunity that surrounds past crimes was raised by various NGOs and by the Belgian commission, who reiterated their concern for the lack of advances in the investigation of crimes committed during the “*Dirty War*”, since the closure of the Special Prosecutor’s Office.

The civil society organizations commented that the Universal Periodic Review has given an opportunity for the international and national community to take notice of Mexico’s serious deficits in human rights terms. They declared that the recommendations accepted by the state should constitute a commitment that must involve every level of government and form part of concrete mechanisms, whose results can be verified. Finally they mentioned that human rights policies must effectively incorporate the contributions of civil organisations for the fulfilment of the obligations and commitments assumed by Mexico.⁵

- 1 The reports presented for Mexico’s UPR can be checked on the Internet: [<http://www.ohchr.org/EN/HRBodies/UPR/PAGES\MXSession4.aspx>].
- 2 The report can be checked on the internet: [<http://www.ohchr.org/EN/HRBodies/UPR/PAGES\MXSession4.aspx>].
- 3 Article 16 of the Mexican constitution allows the judicial authority to order the retention of suspects for a maximum 80 days, whilst possible links to crimes categorized as “organized crime” are investigated. The United Nations Working Group on Arbitrary Detention in a report of their visit to Mexico in October 2002, remarked “the institution of arraigo is an arbitrary form of preventive detention”. For more information consult: Arraigo and Human Rights, Raúl Plasencia Villanova, First Visitor of the National Human Rights Commission. <http://www.juridicas.unam.mx/publica/librev/rev/derhumex/cont/1/art/art5.pdf>
- 4 In the draft of the constitutional reform in human rights, the application of the international treaties’ norms inside Mexico remain superseded by the need for recognition of the same rights by the Mexican

constitution as regards the “principle of constitutional non-contradiction”. Through this principle the constitution is seen as prevailing over the human rights norms contained in international treaties. Moreover, the victims of human rights violations do not have the right to claim compensation from the state. Currently, the UNHCHR is carrying out an information campaign in the Mexican Senate, asking that the limits of the constitutional reform be overcome in order to guarantee a better protection of human rights in the country.

5 The Mexican government’s report on the UPR recommendations can be found on the internet: http://lib.ohchr.org/HRBodies/UPR/Documents/Session4/MX/A_HRC_11_27_Add1_MEX_S. The contribution by the Mexican representatives can be found at the following link: http://www.upr-info.org/IMG/pdf/Mexico_Plenary_Presentation_2009.pdf, the contributions by the NGOs and other states during the session of 11th June can be seen on Cencos’ webpage, <http://cencos.org/es/EPU>, or on <http://www.upr-info.org/Plenary719.html>.



Presentations by Vidulfo Rosales, *Tlachinollan* and Sara Méndez, *November 25th Committee*, UPR June 13, 2009

The situation of human rights defenders in the UPR

The problems that affect human rights defenders in Mexico in the context of ongoing impunity were taken up by England, Norway, Panama, Germany, Azerbaijan and Belgium. On this issue the following recommendations were accepted:

- Recognise publicly the important role that human rights defenders and non-governmental organisations play. Recommended by the United Kingdom.
- Ensure the crimes and attacks against them are effectively investigated, and pursued by the justice

system, punishing those responsible. Ensure also that the denunciations of aggressions, threats or acts of intimidation against defenders are taken seriously and instruments are put into place to guarantee their security. This recommendation was made by Norway, Belgium and Azerbaijan.

- Increase the effectiveness of protection measures in order to safeguard the security of defenders who’ve received threats. Adopt strategies and prevention measures at all levels of government, local, state and federal, in order to protect the

life and physical integrity of defenders. Ensure that these programs are backed up by a serious political commitment and by the necessary resources for their implementation. Recommended by Germany and Norway.

- Establish an inclusive and effective dialogue with civil society organisations to follow up, implement and monitor the fulfilment of the UPR recommendations. Recommended by Panama and Norway.

In the June UPR session, the Mexican state made no observation as to how

the recommendations related to human rights defenders will be implemented. More generally, they implied that the accepted recommendations would be integrated into the National Human Rights Programme, which is being revealed through a campaign in the Mexican press.

The human rights organisations that contributed to this final phase of the UPR, maintained that in Mexico human rights defenders and social activists are criminalized and their fundamental rights violated. They highlighted the continual violence against human rights defenders, amid threats, persecutions and, on occasions, the forced abandonment of their work and withdrawal from the public spotlight due to aggressions. The Mexican state does not guarantee the security of these people or pursue their attackers.

PBI has worked in Mexico since 1999 and accompanies various members of indigenous and human rights organisations. Even though many of those we accompany count on security measures from the Mexican state, granted by request from the Inter-American Commission on Human Rights and/or Court, threats and aggressions against them have been especially serious in 2008 and 2009.⁶ ■

⁶ A clear example of this situation is taken up in our publication: *Silenced: Violence against human rights defenders in the South of Mexico from May 2009* and available at www.pbi-mexico.org.



Obtilia Eugenio Manuel, Organization of the Indigenous Me'phaa People, threatened human rights defender

Recommendations rejected by the Mexican State

Military jurisdiction and penal justice reform

Among the 8 recommendations on which Mexico issued reservations, five refer to the improper use of military jurisdiction to try human rights violations of civilians by members of the armed forces. In their final report, on 11th June 2009, Mexico rejected the recommendations on the issue.

This subject is relevant for the work of two of the organisations accompanied by PBI in Mexico: the Organisation of Indigenous Me'phaa People (OPIM) and the Association of Relatives of the Detained, Disappeared, and Victims of Human Rights Abuses in Mexico (AFADEM). The OPIM and AFADEM reject the competence of military jurisdiction in examining denouncements of sexual abuse, in the case of the OPIM and of forced disappearances, in the case of AFADEM. As well as questioning the competence, they both blame the application of military jurisdiction as a root cause of the climate of impunity that have permeated these crimes until now.

The United Nations High Commissioner for Human Rights in her visit to Mexico in 2008, the Committee against Torture in their 2006 report, as well as the Special Rapporteur on the Independence of Magistrates and Lawyers in his report following a visit to Mexico in 2002; have all recommended that civil courts be the competent forum to try denunciations of human rights abuses committed by military personnel. In the same line, Portugal made the following recommendation: give the power over judging human rights abuses to the civilian courts, particularly in cases of torture and cruel, inhuman and degrading treatment, committed by military personnel even if the cases are considered in relation to the exercise of their duties as soldiers.

Bangladesh, South Korea, Russia, Peru, Uruguay and Ireland shared the same opinion in their recommendations. Uruguay reiterated the recommendation presented in reports by Mexican non-governmental organisations: that human rights crimes are tried by civil jurisdiction and not by military courts.

Non-governmental human rights organisations argue that military jurisdiction is being applied unlawfully given that military courts investigate cases that don't constitute offences against military discipline but human rights violations of civilians. The Mexican organisations maintain, moreover, that the investigations of military abuses led by the army authorities themselves results in a lack of transparency and a climate of impunity. For their part, the report presented by the Mexican State as preparation for the UPR states that "the war statute subsists in Mexico in conformance with article 13 of the constitution for crime and offences against military discipline" and emphasizes the fact that the Military Supreme Court's resolutions can be referred to the civil justice system, through the appeal process. However, Mexican NGOs stress that non-guilty verdicts by a military court are not able to be appealed.

The declarations made by General Jaime Antonio López Portillo, General Director for Human Rights of the National Defense Department (SEDENA), interviewed by La Jornada on 23rd February 2009, indicate that there will be no foreseeable change in the Military Justice Code in judging cases of military crimes against civilians in the common courts. To back up his position, the general alludes to the appeal system: "Our sentences and procedures can be revised by appeal which works as a guarantee to avoid impunity favouring anyone". He rejects any need to make changes given that "not one case has been reported in which there is conclusive proof that the war statute has been used to preserve impunity. This has even been mentioned internationally, and even the Inter-American Commission on Human Rights has been unable to provide any such proof".

Faced with these declarations it is important to remember that the Inter-American Court of Human Rights is currently analysing the cases of Rosendo Radilla Pacheco, disappeared at a military road block in the 70s and of Ines Fernández Ortega, who denounced having been a victim of rape by members of the Mexican army in 2002. The Inter-American

Commission on Human Rights (IACHR) is processing a similar complaint to that of Inés Fernández, issued by Valentina Rosendo Cantú. Since 1965 the IACHR has the competence to analyze and adjudicate on petitions particularly related to alleged human rights violations committed by member states of the OAS. Before processing these claims, the IACHR examines whether the relevant recourses of internal jurisdiction have been exhausted or if the aggrieved parties have not been able to access them.¹ When the Inés Fernández Ortega case was accepted, the IACHR stipulated that “regarding the use of military jurisdiction to try members of the army, the Commission has pronounced on numerous occasions that the military courts do not constitute an appropriate forum and therefore do not offer an adequate recourse to investigate, judge and sanction the abuse of human rights established in the American Convention”.

Valentina Rosendo Cantú followed the process at her disposal according to Mexican legislation, presenting an appeal in 2002 against the competence of military courts to try her case. The appeal was declared inadmissible. The following year, Inés Fernández Ortega submitted an appeal citing the unconstitutionality of the competence of the army, which was also rejected. After 7 years of demanding justice using all the legal resources at their disposal, neither Inés Fernández nor Valentina Rosendo have managed to end the impunity that surrounds the crimes they suffered.

The fight against organized crime and the system of *arraigo*. Reforms of the Mexican justice system.

Three recommendations not accepted by the Mexican state criticize the recent reforms in the penal justice system, which have been elevated to constitutional status with the ultimate aim of combating organized crime. This reform contains positive aspects, amongst them the elevation to constitutional status of the presumption of innocence, but also some worrying elements like the definition of organized crime that human rights NGOs consider contrary to the United Nations Convention against Transnational Organized Crime (the Palermo Convention). Within the same reform, the *arraigo* system was integrated into the constitution.²

Portugal made the recommendation of changing the definition of organized

crime in line with international norms that determine it as a “*structured group of three or more people who have been together for a certain time and who act concertedly with the aim of committing one or more serious crimes or crimes typified according to the present Convention with the aim of obtaining direct or indirect economic and material benefit*”. Ireland, Switzerland and New Zealand recommended withdrawing the *arraigo* system from national legislation, citing the petition from the Report of the Working Group on Arbitrary Detentions after their visit to Mexico in 2002 and the Report of the United Nations Special Rapporteur on the Independence of Magistrates and Lawyers from their visit in 2001.

PBI accompanies organizations and people who have expressed concern for the grave abuse of personal freedoms and the right of due process that the *arraigo* implies. The *arraigo* is a security measure that authorizes the detention of a person in order to pursue an investigation, under the suspicion that they could have committed a crime, for a period of 80 days. The Supreme Court of Justice of the Nation, Mexico’s highest court, has declared that the *arraigo* system contravenes the presumption of innocence, the right to due process and facilitates the abuse of preventative detention. The United Nations Working Group on Arbitrary Detentions in their report from their visit to Mexico in October 2002 remarked, “*the arraigo institution is an arbitrary form of preventative detention*”.

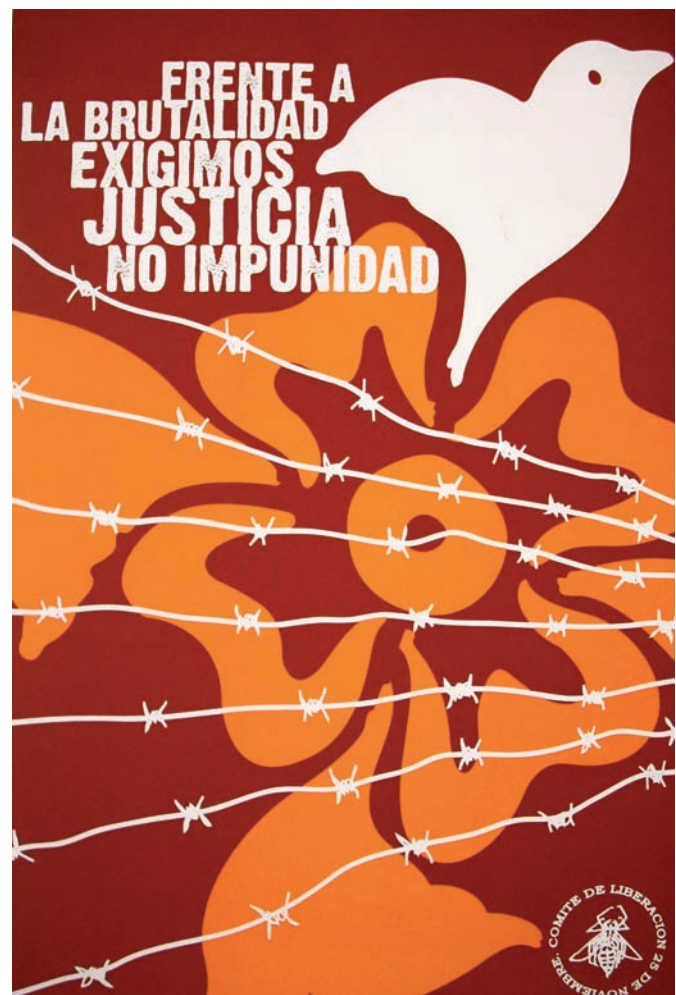
During the UPR session, the Mexican state reiterated its commitment to the respect of human rights and accepted the challenge of harmonizing its

internal norms with international treaties. In the June 11th session, Mexico indicated that the National Human Rights Program will be the competent instrument for monitoring the application of the *arraigo* system and for encouraging reforms in military justice in accordance with the international commitments adopted by Mexico on the subject. A question mark remains over the way in which these commitments will be implemented throughout the different states of the Mexican republic. ■

1 For more information see the Inter-American Commission on Human Rights, Claims Form

[https://www.cidh.oas.org/cidh_apps/instructions.asp?gc_language=S].

2 For more information consult: Raúl Plasencia Villanova, “*arraigo* and human rights” in Mexico Human Rights. Newsletter of the National Human Rights Centre, ISSN 1870-5448, No. 1, 2006 [<http://www.juridicas.unam.mx/publica/librev/rev/derhumex/cont/1/art/art5.pdf>].



Poster from the campaign, Justice for Oaxaca, organized by the November 25th Liberation Committee

New PBI team in Oaxaca

Issues and concerns regarding the defense of human rights in Oaxaca

The new phase of PBI's work in Oaxaca, initiated in October 2008, confirms PBI's vision of the complexity of the state's conflicts, marked by agrarian contests, control of natural resources, the mismanagement of public funds, social demands and electoral and power struggles. The events of 2006 highlighted this intense social and political conflict as well as the capacity of the Oaxacan society to mobilize itself. The repression and human rights violations that occurred that year and ever since have been widely documented whilst several bodies have issued recommendations in this respect.¹ The Oaxacan organisations have expressed their concern about the consequences of repression and impunity, in particular related to the security of human rights defenders and journalists.² All this is taking place amid a climate of social polarization and lack of dialogue between the government and civil society.

Access to justice and impunity

The organisations have shared with PBI their concern that the climate of impunity appears brazen in the serious acts of violence attributed to or directly linked to public servants. In these circumstances there is no access to justice for victims or their family members. A recent example being the case of

Marcelino Coache, a senior member of the Oaxaca People's Assembly (APPO), kidnapped and tortured on March 4th by suspected police officers and whose defense has been taken up by the Regional Human Rights Centre "Bartolomé Carrasco Briseño".³

Regarding the events of 2006, the November 25th Liberation Committee has filed a collective complaint with the Attorney General's Office (PGR) for incidents of torture that occurred after the arrests and imprisonments of November 2006, as part of the national and international campaign "In the face of brutality we demand justice, not impunity". Furthermore the Committee is defending, together with the Legal Commission of Section XXII, the innocence of Juan Manuel Martínez, who the PGR claims murdered the American cameraman Brad Will in October 2006, along with eight others accused of covering up the murder.⁴

The violence of some open conflicts, like that of Santo Domingo Ixcatlán, have led to the Human Rights and Indigenous People's Advisory Center to ask for precautionary measures from the Inter-American Commission on Human Rights. The measures were granted for 177 residents of the town after the murder of 3 people in April 2008 by an armed paramilitary group. Elsewhere, in Santiago Lachivía, the

community has denounced, with the support of the Miguel Agustín Pro Juárez Human Rights Center and Tequio Jurídico, two incursions by the army, one of which, on August 5th 2008, caused the death of two residents from shots fired by soldiers.⁵

The Mexican League for the Defense of Human Rights (Limeddh) has expressed its concern for the lack of political will by the state government when faced with serious human rights violations and, in particular, with the case of the disappearance of two members of the guerrilla group 'the Popular Revolutionary Army' (EPR) on May 25th 2007. The National Human Rights Commission (CNDH) issued recommendation 007/2009 regarding the case but, in spite of the investigations carried out by the CNDH pointing to forced disappearances, the state and national government has denied any participation of police corporations in the alleged detentions and rejected the recommendation.⁶

Indigenous rights, autonomy and land rights

The exercise of autonomy and the defense of indigenous people's rights are linked to the defense of land rights and also to the upholding of indigenous normative systems and identity. In Oaxaca the application of their own normative systems at the time of election and exercise of public office is constitutionally recognised: of the 572 state municipalities, 418 work in this way, known as the system of uses and customs. In this context the following organisations work: Services for an Alternative Education (EDUCA), the Union of Organisations of the Sierra Juárez of Oaxaca (UNOSJO) and the Services of the Mixe People (SERMixe).

EDUCA is one of the organisations that have followed the municipal electoral procedures since 1997 through the observation of elections since, in some cases, these procedures have turned into conflict zones. The work of UNOSJO has recently focused on the denouncement of a case of "geopiracy" related to anthropological and geographical investigative projects in San Miguel Tiltepec⁷ whilst analysing the causes and effects of contamination of corn crops by GM practices.⁸ SERMixe offers legal advice on cases that deal with the conflict between the application of indigenous normative systems and the state justice system⁹, or on



Event in Tataltepec in Opposition to the Project known as Paso de la Reyna

Presentation by those opposed to the hydroelectric dam project *Paso de la Reyna* during an event that took place in Tataltepec de Valdés in March. Photo: PBI



November 25th march. Organizations commemorate the repression from November 25th, 2006 with a silent march. Photo: PBI

cases of land defense, like in Jaltepec de Candoyoc, a Mixe community that is demanding the Oaxaca State declares unlawful an Ecological Reserve Area in part of their community lands.

The collective character of the tenancy of the land ensures the organizational structure of the communities works to the benefit of the common good. In this context, claims to land rights and the management of natural resources arise when faced with development projects that exclude communities, are driven by the state and are carried out by private and semi-state companies. The communities defend, above all, the right of access to information and the right to consultation, and to be able to choose whether to approve the projects or not. At the same time, they are initiating their own projects to manage their natural resources.

In the Central Valley district, the Indigenous Rights Center “Flor y Canto” accompanies several communities, organized under the Coordinator of United Peoples for the Defence of Water, who defend the sustainability and management of their own water in the face of regulations that are imposed by the National Water Commission.¹⁰

In the coastal region the Council of United Peoples for the Defense of the Río Verde (COPUDEVER) is being formed to oppose the proposed hydroelectric dam “Paso de la Reyna” planned by the Federal Electricity Commission (CFE).¹¹ On February 27th and 28th, PBI was present at the forum “For the defense of land, territory and the development of indigenous people”, organized by COPUDEVER together with La Ventana, the Ñu'u Jikandii Human Rights Center and

Educa, in order to inform the communities of the proposed project.

Women's rights

Several organisations work on gender issues and the defense of women's rights, in a context of abuse and institutional violence. In Oaxaca, women lack protection and an adequate defense whilst there is no full recognition of their rights as citizens. The Consortium for Parliamentary Dialogue and Equality promotes, toge-

PBI visits the Isthmus region

The Isthmus region of Tehuantepec is a strategic zone for economic development in Oaxaca, due to its geographical characteristics and the richness of its natural resources, and is included as part of the Mesoamerican Project, previously known as Plan Puebla Panamá. Between February 3rd and 7th, PBI visited organisations in the region such as the “Tepeyac” Human Rights Center in Tehuantepec and the Union of Northern Isthmus Region Communities (UCIZONI) in Matías Romero, that carry out wide-ranging advisory work and defense of indigenous people's rights. PBI also got to know the work of the Nääxwiin Women's Human Rights Center in Matías Romero as well as the advisory work on labour issues that Tequio Jurídico carry out in Salina Cruz. In Ciudad Ixtepec we visited the Migrant's House “Brothers on the way” which gives temporary shelter to Central Americans that travel to the north on commercial trains. In an interview, Alejandro Solalinde, coordinator of the Pastoral Organisation of Human Mobility, explained the work of the defense of migrant's rights for those that have suffered threats and abuse.¹³ For more information see *Entrevistas PBI México*: www.pbi-mexico.org

ther with other feminist organizations and collectives from the Colectivo Huaxyacac, initiatives and campaigns to protect these rights.¹²

A fundamental aspect of the work of organizations like Consortium, Sermixe, the Yuubani Organized Women's Collective, Nääxwiin and UCIZONI are their programmes in indigenous communities that include: advice and attention (legal and psychological) for cases of violence; workshops with diverse participatory methodologies on issues such as health, reproductive rights, gender and sexual violence, and training and support for women to carry on the work in their own communities.

Meetings with Mexican authorities

As a fundamental core of PBI's work, meetings have been established with state authorities: the Undersecretary for Human Rights of the General Secretary, Rosario Villalobos Rueda, the President of the Commission for the Defense of Human Rights of Oaxaca State, Dr. Heriberto Antonio García, and state officials from the Public Security Office, the State Attorney's Office, the Under-secretariat of Municipal Development and the Coordination of Government Delegations, as well as with federal authorities such as the Delegate of the State Attorney General's Office, Jordán de Jesús Alegría Orantes. ■

- 1 See reports from the Oaxacan Human Rights Network, Amnesty International, the International Civil Mission of Human Rights Observation, the International Commission of Jurists and Deaconry Work and the International Service for Peace (SIPAZ), amongst others. In 2007, Florentín Meléndez, President and Special Rapporteur for Mexico for the Inter-American Commission on Human Rights also visited Oaxaca.
- 2 Amongst the most recent cases of aggressions against journalists in Oaxaca is the kidnapping for 12 hours, abuse, threats and robbery of Pedro Matías, journalist for *Diario Noticias*, on October 25th 2008; the physical and verbal abuse of Verónica Villalbazo, independent reporter and author of *Frida Guerrero* blog, in the centre of Oaxaca city on January 29th 2009. Victor Raúl Martínez Vásquez, "Human rights in Oaxaca and government hypocrisy" in *Noticias*, 19 March 2009.
- 3 Regional Human Rights Centre Bartolomé Carrasco Briseño and Deaconry Commission of Justice and Peace, kidnapping and torture of Marcelino Coache Verano, APPO leader, 8th March 2009.
- 4 For more information, consult: <http://comite25denoviembre.org/>.
- 5 Miguel Agustín Pro Juárez Human Rights Centre and Tequio Jurídico, New military operations in Santiago Lachivia, press bulletin, 18th December 2008.
- 6 Limeddh – Oaxaca, Negative response by the state and municipal government of Oaxaca in accepting the 07/2009 CNDH recommendation for the forced disappearance of Edmundo Reyes Amaya and Gabriel Alberto Cruz Sánchez, Urgent Action, 16th march 2009.
- 7 The Union of Organizations of the Sierra Juárez of Oaxaca, geopiracy, the Pentagon strategy: Oaxaca case in *Ojarasca*, no. 142, February 2009.
- 8 Aldo González Rojas, Corn, GM contamination and indigenous people in Mexico, PRD Parliamentary Group, Parliamentary Chamber, Congress LX Legislature, Mexico August 2008.
- 9 *Mixe community demands respect for the integrity of their ancestral lands before the federal courts, press bulletin dispatched by the Miguel Agustín Pro Juárez Rights Center*, 21st January 2009.
- 10 Press statement from the Coordinaton of United Peoples in the Defense of Water, Oaxaca, 18th March 2009.
- 11 *La Jornada*, CFE propose four projects", 11th March 2009.
- 12 Huaxyacac Collective, 1st August Oaxacan Women Coordinator (COMO), New Women Collective, Oaxaca Consortium for Parliamentary Dialogue and Equality, Diversidades, Women Support's Group (GAEM), Mexican League for the Defense of Human Rights, Announcement regarding the Violence Law, 7th March 2009; and Ana María Hernández "Outstanding Agendas in Oaxaca" in *El Topil*, no. 3, October 2008.
- 13 *Amnesty International, Urgent Action, Report AI: AMR 41/029/2008, 2nd July 2008.*

Human rights defenders and drug trafficking in Mexico

The problem of drug trafficking is, without doubt, one of the determinant themes of Mexico's international image. Although it represents an old phenomenon, today's rising levels of violence have given it a new relevance in the media. To combat the violence, the Mexican state has entrusted the army with public security duties, a decision that has impacted on the human rights situation in the country. This has been reflected in the recommendations made by various states to Mexico during the Universal Periodic Review, expressing their concern for the exceptional measures taken in the "war against drugs". At the same time, the increase in human rights violations in the context of the struggle against organized crime has spurred civil society organisations to take into

account the drug trafficking problem and try to formulate possible strategies in the face of this omnipresent actor. PBI has carried out a series of interviews with Mexican academics¹ to better understand the impact of drug trafficking on the human rights situation in Mexico, especially for human rights defenders.

The growing context of drug violence

The most visible face of drug trafficking is evidenced by the high levels of violence that, as John Ackerman maintains, has been prevalent for the last two and a half years with little obvious solution in sight. According to the count taken by *El Universal* newspaper "during [2007] there were 2,673 drug-related murders, 5,630 [in 2008] and in the first 51 days of 2009 the

one thousand mark has been passed"². Luis Astorga y Elena Azaola point out that this violence is principally due to the weakness of the state, its institutions and its security policies, a situation that has been dragging on for several years. According to Jorge

"The changes in the Mexican political system together with the weakness of institutions has meant that, during the process of democratic transition, non-state actors with enormous economic resources and a powerful armoury, are attempting to occupy more of the public space. And with the state getting weaker, there's no reason why these actors should be on the back foot."

Luis Astorga

Chabat, *“whilst the Mexican state maintains a policy of confrontation with the drug traffickers, there will be violence, unless, and it could be a long time coming, they manage to strengthen institutions and lessen the levels of violence”*. An alternative, less favourable, scenario posed by Astorga would be that one of the cartels gains hegemony and dominates the rules of the game. This could imply that the state recognises it as a political actor with certain legitimacy as, according to Astorga, happened in previous presidential terms.

Beyond the context of insecurity, drug trafficking is increasing the situation of risk for human rights defenders. PBI has observed that this actor is increasingly affecting more and more the work of the people we accompany. Historically, social organisations have focused on the responsibility of the state for rights violations, they haven't analysed the problem of drug trafficking and have kept themselves at the margin of this phenomenon. This has been due, on the one hand, to the organisations' efforts to avoid being objects of attacks by the drug traffickers, which would increase the danger of their situation, bearing in mind also the links between the drug cartels and the local population and authorities³. The change in the model of action of these criminal groups has had an impact on the increase in risk for these organisations. In effect, the drug traffickers have developed strategies of violence against members of civil society, who they used to not attack, and are now used as hostages and as a way to pressure local and federal authorities. In addition, according to Astorga, there is a danger that the drug cartels, in promoting their own interests, are taking advantage of the context of poverty and marginalization that the population live in, in order to use and manipulate local people.

In this context, economic help could be seen as a survival strategy. It's this reason, warns Astorga, why civil society organisations need to position themselves more clearly with regards to the issue of drug trafficking whilst maintaining the criticisms of the abuses of the Army.

Ackerman goes further: *“When there's a diversity of armed actors that detain, torture or pressurize people, confusion grows as to whether it's the repressive*

“I will support everything that is necessary so that society is in peace, so that [people] can carry on with their activities.”

“The presence of the Mexican army is not a point of discussion, it is a presence that has historically helped Guerrero, and we want it to continue to carry out the tasks that will help the people of Guerrero.”

Statements made by the Governor of Guerrero, Zeferino Torreblanca, *El Sur de Acapulco y Jornada Guerrero*, June 27, 2009

government or the drug gangs themselves [...] and this benefits both sides. It reflects a very perverse type of complicity. It's convenient for the government to have other armed actors that allow them to exercise extra-legal pressure whilst confusion persists as to where this violence comes from [...] This lack of clarity between state and other actors makes the situation a lot more difficult for human rights defenders. If it's possible to clearly identify who are violating rights it becomes a lot easier to defend against these violations. This doesn't necessarily mean that the government finances drug gangs to stop human rights defenders. But it does create a situation of confusion that makes the work of defenders increasingly more difficult”.

The government's response

The government has tackled the drug trafficking problem from a public security perspective, opting to confront it with temporary use of the army. At the same time, there has been a continuous increase in criticisms of the way in which the armed forces are carrying out their work, especially with regards to denunciations of human rights abuses by the army. In Guerrero, the State Human Rights Commission (Coddehum) has received more than 79 denunciations between the end of 2008 and the start of 2009 (compared to 3 in 2007).

This issue has become of international concern. During Mexico's Universal Periodic Review (UPR), before the UN Human Rights Council, some countries recommended that Mexico withdraw the army from the streets. The investigators interviewed here do not believe this petition will be accepted by Mexico. Although they agree the armed forces are carrying out duties that do not correspond to them, many experts fear that, faced with the increase in strength of the drug gangs,

the army may have become an option of last resort. According to Astorga this has come about since the fall of the Institutional Revolutionary Party, PRI. The transition meant a fragmentation of political power that didn't allow for the collective constitution of a state security policy applied to all levels, or for strong, capable and incorrupt security institutions: *“In these circumstances, the only state institution left are the armed forces. It's an emergency situation. And there's a very clear inability on the part of the political class to establish a timetable for the withdrawal of troops”*. He adds, *“there's no plan B from any of the political powers. There are occasional criticisms but no proposals of alternative strategies. Everyone knows that the military aren't trained for policing work but neither are the police [...] even if the objective of withdrawal is desirable, in terms of realpolitik everybody knows it's impossible in the short term”*.

This response of militarization is also a way to gain legitimacy and be looked on positively by a society being offered security by the current party in power, the National Action Party, PAN. Those interviewed here believe that, in looking toward the July elections, the current government are trying to define itself as an alternative to the PRI,

“While it's accepted that there is a serious problem of police corruption, the army is not incorruptible either. In fact many of the drug cartel members are ex military. What's more, they're not trained for public security operations”.

John Ackerman

linking them with drug trafficking and past practices. Ackerman's reflections highlight these political ends. For him, the word “war” has been abused, and allowed to justify the state of exception and suspension of basic fundamental rights. He doesn't consider the situation in Mexico as justifying a state of exception⁴, rather the country seems to be up against a public security and justice procurement crisis. Nonetheless, certain parts of the republic like Ciudad Juárez are in de facto states of exception without the government having respected the procedures stipulated in article 29 of the Mexican Constitution. The military deployment has been carried out without regard for the constitution.

The investigators don't think an end to the current militarization is very probable but they highlight measures that might allow for the strengthening of respect for human rights, in the same line as several recommendations made during the UPR:

Insist in that the military presence be temporary as the government claim. (Azaola and Astorga)

Ensure the armed forces and all the public security personnel follow specific training on respect for human rights. (Azaola, Astorga, Ackerman, Chabat)

Create an independent body from the executive that oversees the work of the Public Security Secretary and the State Attorney's Office. (Ackerman)

Have a vision of the state in terms of security in order to reconstitute the public security institutions. (Astorga and Chabat)

Create checks and balances and transparency within the military institution, that's to say that the soldiers respond to civil society, and the military code of law is ended. (Astorga and Ackerman)

The criminalization of social protest

Apart from the abuses of the military stemming from the bad handling of the fight against drug trafficking, it's become common in recent months to read declarations in the press from the authorities that claim social organisations are being used as a facade to protect organized crime gangs. To what extent is the war against drugs being used as an instrument to criminalize social protest and repress civil society organisations? Those interviewed here reject the existence of such a policy of the state. Nevertheless, they've noticed

some public servants have shown questionable conduct. According to Azaola, *"we can't talk about a state policy, that would be wrong, but there have been state agents who don't understand their work and who have even been involved in attacks [against defenders]"*.

Astorga maintains that the strategies of the government are not monolithic. For him, although Mexico no longer reflects an authoritarian system there are always powerful actors that strive for a return to the authoritarian past. In particular he points out that, in the case of Guerrero, strong interest groups join forces with the predominance of certain types of political parties that, in their modus operandi, do not differ a lot, and act using the old PRI model. The same happens in the army where professional elements cohabit with past operators from the darkest chapters of the one party system in Mexico. The idea also exists that there's a lack of clarity of the state's role in a democratic context. According to Azaola and Astorga it appears that the logic of *"you're either with me or you're not,"* continues and as such the state doesn't protect human rights defenders. Ackerman goes even further. For him, the confusion stems from the use of the word 'war': *"Because in war, there's only two sides: good and evil. Which we know is not true, there's terrible corruption within the federal government. It's not as simple as police and thieves. And if we see it in this way as a war where fundamental guarantees are suspended, then an NGO who's questioning authority can easily be categorized as an enemy of the state."*

Militarization can serve many functions. It's lamentable for the implications it has for the repression and persecution of NGOs and human rights defenders". ■

- 1 Interviews with Jorge Chabat (17/11/08), Elena Azaola (16/03/09), John Ackerman (03/04/09) and Luis Astorga (03/04/09). Jorge Chabat is a Doctor in International Relations, political analyst and investigator for CIDE. He's also a columnist for El Universal newspaper. Elena Azaola is a Doctor in Social Anthropology and Psychology. She's also an investigator for CIESAS and member of the Council of the Human Rights Commission. John Ackerman is a Doctor in Sociology, investigator for the UNAM Institute of Legal Investigations and columnist for Proceso magazine and La Jornada newspaper. Luis Astorga is a Doctor in Sociology, head investigator at the UNAM and coordinator for the UNESCO chair.
- 2 Juan Velez, "Violent Homicides No One Investigates", El Universal, Monday 23 February 2009.
- 3 According to Astorga the social base of traffickers in zones of production, transit and consumption is mostly deeply entrenched from a long time ago, usually with kindred links between producers, intermediaries and local authorities.
- 4 Article 29 permits the establishment of a state of exception in the case of invasion, serious threat to public peace or any other circumstance that puts society in serious danger or conflict. In these cases, what should happen is the following: the president, and only him, with the agreement of the heads of the state secretary, the PGR and with the approval of parliament, can suspend in the whole country or in a determinate area, the guarantees that act as an obstacle to react rapidly to the situation.

Demand for justice before the Inter-American Court of Human Rights on behalf of the disappeared from the Dirty War in Mexico.

Tita and Rosendo Radilla Martínez testify on July 7th

Peace Brigades International accompanies Tita Radilla, vice-president of the Association of Relatives of the Detained, Disappeared, and Victims of Human Rights Abuses in Mexico (AFADEM) since 2003. AFADEM works toward justice and to clarify cases of disappearances from the so-called Dirty War in Mexico in the 70's

and 80's, when more than 450 people were disappeared in the municipality of Atoyac de Álvarez, Guerrero. Tita Radilla has taken charge of the fight on behalf of the family members of the disappeared. After more than 35 years of working for justice in the case of the disappearance of her father, Rosendo Radilla Pacheco, his case reached the Inter-American Court of Human Rights in San José, Costa Rica. Tita and Rosendo Radilla appeared in

court, and gave testimony regarding the state's responsibility in the disappearance of their father. Their demand exemplifies the cases of hundreds of other disappeared people and the impunity that surrounds these cases. PBI was present at the hearing, and interviewed Tita and Rosendo Radilla, as well as their lawyers María Sirvent and Mario Solorzano from the Mexican Commission for the Defense and Promotion of Human Rights.

Tita Radilla, vice-president of AFADEM at the Inter-American Court of Human Rights



Why have you continued to work for justice in your father's case?

Tita: Someone from the family had to represent his case, right now it's my turn, before it was my mom, my brother. I think that there should be justice in this case as well as in all the other cases of forced disappearances. It is necessary to know what happened to them, where they are, and most importantly know their whereabouts and have them returned to us.

Rosendo: I believe that today is a very important day, mostly because the Mexican government had to appear in the Inter-American Court of Human Rights because it had not upheld the law in Mexico. We hope that the Court finds on behalf of the Radilla Martínez family since the human rights violations by the Mexican State and its military have been clearly demonstrated [today].

How did your father's disappearance affect your life?

Tita: Since his disappearance it has been really difficult to continue on with our daily lives.

Rosendo: As she said, I said earlier, before it was better, we were happier, [ever since his disappearance] I have tried to survive but it has been difficult. I have the memory of what happened with me each day and night.

What are you asking of the Mexican State?

Tita: We are asking that they carry out real and effective investigations, that will shed light on the whereabouts of

our disappeared family members. We do not want them to continue doing the same proceedings in which they just investigate the testimonies given by the families, but that they really investigate those that are responsible.

What do you hope a sentence can accomplish for other cases of the disappeared?

Tita: I hope that a favorable sentence will be issued by the Court so that the Mexican State has to really investigate, to look for the whereabouts of the disappeared and give the families the justice they deserve.

How was the hearing today?

Tita: The hearing was good because I felt like the judges were really interested [in the case] and they were listening to us. The efforts of the lawyers were incredible. The Inter-American Commission on Human Rights are experts on the subject and I felt like we had a very good defense. Also the accompaniment by PBI, and from Ximena (from the Mexican Commission for the Defense and Promotion of Human Rights) has helped us a lot, it has given us strength and support to be in this Court and feel calm.

Rosendo: The judges said that this case is important, and it is one that has provided a lot of evidence. I think that the lawyers did a really good job. The Mexican government's defense was more political than legal. We hope for a favorable resolution from the Court because the arguments of the Mexican State have been more political than legal.

How does PBI's accompaniment help you?

Tita: PBI's presence has been really important for me in this process; their accompaniment gives us strength. For me, personally, it gives me a sense of security, and gives me strength. Also their presence influences the Mexican State to see that we have an international interest and support for our case.

Rosendo: I think it is important for PBI to watch cases such as this one, because they are very delicate cases where it has been really difficult to attain justice and clarify what happened. I think that where there is impunity there is danger. It is really good that PBI provides these accompaniments, especially for my sister Tita. I am personally very grateful to PBI.

Tita: I would also like to thank all of those that have been involved, those that have been supporting us, in solidarity with us, we owe many thanks to the embassies, and to all of the people that have gotten involved and helped us continue. I think that we would have never been able to do it alone.

Rosendo: Yes. I think that the solidarity is very important in this case. Many people have supported us, including some people that we have never met. They say that where there is a real need for truth, in a case that needs to be clarified, "many people will always be present," and we see this. I think that there have been many people that have supported us, I am grateful for the solidarity with the Radilla family.

For more information about Rosendo Radilla's case before the Inter-American Court of Human Rights, as well as more information about disappearances in Mexico during the Dirty War:

Mexican Commission for the Defense and Promotion of Human Rights:

<http://www.cmdpdh.org>

Inter-American Court of Human Rights:
<http://www.corteidh.or.cr/docs/asuntos/radilla.pdf>

México en la Corte Interamericana, Proceso, July 12 2009.

PBI Mexico, Human Rights Defenders in the State of Guerrero, December 2007:

<http://www.pbi-mexico.org>

Tour on impunity:

The problem of impunity is one of the biggest obstacles that face human rights defenders in Mexico, Guatemala, Colombia, Nepal and Indonesia when it comes to urging respect for fundamental rights. In these five countries PBI accompanies defenders threatened for their work and bears witness to their efforts to end the lack of prosecution that beleaguers the violations of the most basic rights.

As such, none of the cases of forced disappearance denounced by AFADEM in Mexico (amongst them the forced disappearance of Rosendo Radilla, father of Tita Radilla, accompanied by PBI) has given rise to a prison sentence or a judgement that clarifies the facts and who the perpetrators were. The same can be said of the thousands of victims of forced disappearance in Colombia. For more than 30 years many of these cases have not been properly investigated and no one has been held accountable. When the defenders demand justice they become the object of attacks and threats that, once again, are not investigated and remain in impunity.

With the aim of giving better visibility to the fight against impunity that different organisations are carrying out in Mexico, Guatemala and Colombia, the PBI national groups in North America organized a visit of human

rights defenders to Canada and the United States.

In Canada they attended public events and meetings with university academics, non-governmental organisations (NGOs), members of Parliament and the Department of Foreign Affairs (DFAIT) of the Canadian government. Equally, in the United States they delivered presentations at universities and held meetings with NGOs as well as members of Congress, the Senate, the State Department and the United Nations.

Representing Mexico was Tita Radilla, Vice-president of the Association of Relatives of the Detained, Disappeared, and Victims of Human Rights Abuses in Mexico (AFADEM). For Colombia there was Gloria Gómez, National Coordinator of the Association of the Detained-Disappeared (ASFADDES). The two organisations share the same objectives and face equal difficulties in their demands for truth, justice and compensation for the cases of forced disappearances of their family members. Jorge López and Zulma Robles, of the Organisation for the Support of an Integral Sexuality faced with AIDS, OASIS, who struggle against the impunity of crimes against sex workers in Guatemala, represented the Guatemalan defenders. ■



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Tita Radilla, AFADEM, and Jamie Wick, PBI Mexico, in front of the capitol in Washington, D.C.



From left to right: Madeleine Penman and Luís Arriaga Valenzuela (Miguel Agustín Pro Juárez Human Rights Center), Humberto Guerrero (Mexican Commission for the Defense and Promotion of Human Rights), Agnieszka Raczynska, (National Human Rights Network All Rights for All), Sara Méndez (November 25th Committee) and Vidulfo Rosales (Tlachinollan), representatives of Mexican human rights organizations in front of the United Nations headquarters in Geneva.

Peace Brigades International (PBI) is a non-governmental organization that maintains teams of international volunteers who accompany human rights workers in Mexico since 1999. At the request of local organizations, the goal of PBI is to protect the political space of people and organizations that non-violently promote human rights and who suffer repression as a result of this work. International accompaniment is a conflict transformation tool through which a third party contributes to the creation of the necessary conditions to search for solutions. PBI never tries to substitute Mexican initiatives that promote a respect for human rights, but instead supports them with the presence of international volunteers that accompany people and organizations under threat, make regular visits to conflict zones, distribute information about the evolution of the conflict, engage with civil and military authorities and carry out public relations and lobbying work to generate international support.

More information about PBI's work in Mexico can be found on our website at:
www.pbi-mexico.org