

**Joint Submission Report on the human rights situation in Mexico, with special concern on the situation in Guerrero**

Submitted by Regional Human Rights Centre “José Ma. Morelos y Pavón” and Human Rights Centre “Tlachinollan”, for the second cycle of the Universal Periodic Review on Mexico

**Guerrero, Mexico, 4 March 2013**



CENTRO REGIONAL DE DEFENSA  
DE LOS DERECHOS HUMANOS  
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¡POR UNA SOCIEDAD FRATERNA  
Y UNA VIDA DIGNA!

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*The Human Rights Centre “Tlachinollan” is a non-governmental organisation dedicated for 19 years to the defence and promotion of human rights of the Nua, Na’Savi, Me’phaa, Ñaancue Ñomndaa and mestizo peoples in the state of Guerrero, Mexico, with Consultative Status before the UN Economic and Social Council.*

## **Glossary**

CAT – Committee against Torture

CDI – National Commission for the Development of Indigenous Peoples

CECOP - Council of Ejidos and Communities Opposed to the Parota Dam

CEDAW – Committee on the Elimination of Discrimination against Women

CERD – Committee on the Elimination of Racial Discrimination

CFE – Federal Electricity Commission

CMW – Committee on Migrant Workers

CNDH – National Commission of Human Rights

CODDEHUM – Guerrero State Defence Commission of Human Rights

CONEVAL – National Council of Evaluation of Social Development Policies

CRAC-PC – Regional Coordinator of Community Authorities - Community Police

CRC – Committee on the Rights of the Child

FEVIMTRA - Special Prosecutor for Crimes of Violence against Women and Human Trafficking

HRC – Human Rights Committee

IACtHR – Inter-American Court of Human Rights

ICRC – International Committee of the Red Cross

INEGI – National Institute of Statistics and Geography

OHCHR – United Nations Office of the High Commissioner for Human Rights

OPIM – Organisation of the Me'phaa Indigenous Peoples

PGJE – Guerrero state Attorney General's Office

PGJM – Military Attorney General's Office

PGR – Attorney General's Office

SCJN – National Supreme Court of Justice

SEDENA – Ministry of Defence

UNHCR – Office of the United Nations High Commissioner for Refugees

UPR – Universal Periodic Review

## Executive Summary

*The present joint submission presents information regarding the deteriorated human rights situation in Mexico from 2009 to 2013, focusing on the situation of the state of Guerrero, which is representative of the historical situation of poverty, discrimination, and military institutional violence in the state, which has been aggravated by an increasing number of human rights violations and exacerbated generalised violence in the country. The report especially focuses on the impact of these context and its consequences on the rights of indigenous peoples. The report includes, in italics, a series of recommendations which could be presented to the Mexican State to contribute to reverse abuse patterns.*

### I. BACKGROUND AND FRAMEWORK

1. The security crisis in Mexico aggravated during the period under review - from 2009 to 2013 - will be remembered for an unimaginable number of executions related to the fight against drug trafficking, disappearances, kidnapped migrants and internally displaced population. In Guerrero, the context of poverty, discrimination and “military institutional violence”<sup>1</sup> in which serious violations occur, has deteriorated in recent years by the increasing widespread violence, consequence of militarised security policies, especially those combating drug trafficking.
2. This serious context of widespread violence contrasts with developments in normative frameworks, such as the constitutional reform on human rights and shows the inability of the State to implement this legislation in a reality marked by the lack of policies preventing violence and fighting poverty; in addition to the negligence and inability of the State to respond to increasing human rights violations and to combat the connivance and collusion of State elements with non-State perpetrators, thereby reinforcing impunity.

#### A. Scope of international obligations

3. The Mexican State (hereinafter “the State” or Mexico) has been condemned by the IACtHR five times during the period of review; four out of these cases are set in the state of Guerrero<sup>2</sup>, regarding paradigmatic cases of impunity of human rights violations committed by members of the armed forces, including enforced disappearance, torture and rape.
4. Each sentence ordered the implementation of legislative reforms and policy measures to ensure non-repetition. However, the State has not fully complied with its international obligations regarding the fulfilment of the Regional Court decisions, especially those related to the investigation and sanction of the human rights violations committed, in which impunity has been particularly reinforced by the use of the military justice system.
5. *The State should fulfil its human rights international obligations and fully comply with all the international rulings issued in this regard.*

#### B. Constitutional and legislative framework

6. The constitutional reform of June 2011<sup>3</sup> on human rights has been a breakthrough, largely driven by civil society; however, its implementation through judicial decisions and harmonisation in several state legislations, as in the case of Guerrero, has not been further progress.

7. The State must prioritise the implementation of the human rights constitutional reform by the judiciary, at all levels, and carry out harmonising processes in local constitutions, which remain pending, in collaboration with civil society.
8. Mexico did not accept, during the adoption of the report of the Working Group on its first UPR, all related recommendations to restrict military jurisdiction in cases of human rights violations committed by members of the Armed Forces<sup>4</sup>. The incompatibility of military jurisdiction in Mexico with international standards of human rights has been the subject of various recommendations of human rights mechanisms<sup>5</sup>. Similarly, the IACtHR ordered the Mexican state, in four different rulings, to “adopt, in a reasonable period of time, the relevant legislative reforms so as to adjust the compatibility of Article 57 of the Military Code of Justice with international standards on the matter and the American Convention on Human Rights”<sup>6</sup>.
9. Moreover, the IACtHR in the cases of Inés Fernández and Valentina Rosendo ordered the Mexican State to “adopt the relevant reforms so as to allow an effective remedy to contest jurisdiction to those persons affected by the intervention of the military justice system.”<sup>7</sup> The constitutional reform on human rights lays the groundwork for the reforms on the Amparo Law to be adequate and become effective remedy to do so; however, the reform has been pending since October 2011<sup>8</sup>.
10. Mexico must fulfil its obligation to carry out the necessary legislative reforms to ensure the restriction of military jurisdiction according to the highest international standards and to make of the amparo trial an effective remedy pursuant to contest the jurisdiction of the military courts.
11. In addition, in the state of Guerrero, the codification of torture is included in a secondary norm, connected to the creation of an autonomous public organism, and not in the state Penal Code, which contributes to acts of torture not being investigated and sanctioned adequately. Civil society organisations have presented an initiative to reform such dispositions<sup>9</sup>, in accordance with international human rights mechanisms<sup>10</sup>.
12. The State must codify the crime of torture in the Criminal Code of the state of Guerrero in compliance with the international standards on the subject.

## II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

### A. Cooperation with human rights mechanisms

13. It is important to recognise that in its discourse, the Mexican State has been open to communicate with human rights mechanisms; however, it does not provide any effective procedures to implement the recommendations received. Particularly, the Mexican State has neither created an inclusive mechanism to implement the UPR recommendations, nor does it reported on its implementation during the review cycle, unlike civil society organizations<sup>11</sup>.
14. During the period under review Mexico received the visits of the Subcommittee on Prevention of Torture and other cruel, inhuman or degrading treatment, the Special Rapporteurs on the right to education; on the independence of judges and lawyers; on the right to food; on the promotion and protection of the right to freedom of opinion and expression, and the Working Group on Enforced or Involuntary Disappearances, the last two visited the state of Guerrero. In addition Mexico was evaluated by the HRC, CMW, CRC, CEDAW, and CERD.

15. The State must establish a roadmap with the participation of the civil society to implement the recommendations of the next UPR and of other human rights mechanisms.

## **B. Implementation of international human rights obligations**

### **i. Right to life, liberty and security of the person**

16. The involvement of the Armed Forces in public security actions and public spaces in civilian life has generated increasing violence and human rights violations<sup>12</sup>. The military logic and military intervention in the control of public order<sup>13</sup> are opposed to the international human rights obligations of the Mexican State.
17. Paradigmatic examples of gross human rights violations committed by armed forces as the case of the extrajudicial executions of Bonfilio Rubio Villegas<sup>14</sup> and of Abraham Sonora<sup>15</sup> are proof of it.
18. The use of the Mexican army in public security tasks is not part of a comprehensive policy of State police corps reform, it neither does incorporate mechanisms for a democratic reform of the civilian police institutions nor does it improve control or accountability mechanisms.
19. The police forces at the federal, state and municipal level do not count with accountability mechanisms. The events of December 12, 2011 in Chilpancingo, Guerrero, in which the social protest of students from the Rural Normal School “Raúl Isidro Burgos” Ayotzinapa, Guerrero was repressed and criminalised – causing the death of three individuals, two of them students – are proof of it<sup>16</sup>. The CNDH<sup>17</sup> in its special recommendation, regarding the events, documented the excessive force and firearms with the objective of repressing the protest<sup>18</sup>; and that there was neither an evidence of any due coordination between the security forces involved, nor of the use of protocols or guidelines in response to riots to prevent the physical harm of protesters or non-related third parties.
20. The State should establish a comprehensive policy to reform security forces, without promoting the increased militarisation of these, while defining and limiting the participation of the armed forces in security operations.

#### **i.i Torture**

21. The human rights violations inflicted in the Ayotzinapa case are emblematic of the persistence of torture practice employed to obtain illegitimate confessions in high-impact cases; it demonstrates the participation of the public prosecutor and the police responsible for investigating the crimes in this practice; it illustrates the way in which in states such as Guerrero, investigations into torture are not even initiated; it underlines the lack of proof value of the activities of the Ombudsman system; and it demonstrates the persistent risks for those who denounce torture.<sup>19</sup> To date, no official has been punished for any of the crimes.
22. Ten years after the adoption of A/057/2003 Agreement<sup>20</sup>, which has been adopted to guide the investigation of torture cases in compliance with the principle of due diligence, official information<sup>21</sup> proves that neither this Agreement nor the Law to Prevent and Punish Torture have been implemented diligently, which has prevented to reverse one of the main incentives for torture: impunity.

23. The PGR has no public available records to obtain basic information on its institutional performance in regard to investigation and prosecution of torture. There is no updated and concentrated official information on neither of the key aspects such as: the number of preliminary inquiries initiated for the crime of torture; the number of investigations in which criminal action was taken; the number of cases in which courts issued arrest warrants; the number of cases in which detention orders were issued; the number of cases in which a condemnatory judgment was given in the first instance; nor the number of cases in which a condemnatory judicial decision was the final one<sup>22</sup>.
24. The situation in some states is even further behind. In Guerrero, in addition to the insufficiencies in the normative framework, the deficiencies in the investigation of crime, including the lack of implementation of the Istanbul Protocol adds up. In Guerrero, there has not been any investigation of torture in recent years. The Guerrero PGJE reported that from 2007 to 2010 it had not opened any complaint for torture, this despite several complaints documented<sup>23</sup>. To date, there is no record of any preliminary investigation presented to a judge and there is no single conviction for the crime of torture in the state of Guerrero.
25. The Mexican State must urgently review the suitability of the normative frames at the federal and state level which presents numerous setbacks on torture, especially those frames that could improve the efficiency of the investigation of torture cases.

## **ii. Administration of justice, including impunity, and the rule of law**

26. Mexico has stood by its permissiveness in the increasing military autonomy in its security policies, causing the blurring of civilian controls over the Armed Forces which should prevail in any democracy.
27. The SCJN has begun to establish important precedents on this subject<sup>24</sup>, especially after the first and only decision in the contested case of Bonfilio Rubio Villegas<sup>25</sup>, in which it declared unconstitutional Article 57 of the Code of Military Justice. However, the Tribunal has not defined firm and mandatory jurisprudence on the restrictions on military jurisdiction, which currently allows the discretionary use of the expansive application of military jurisdiction<sup>26</sup>. The lack of binding precedents allows victims of human rights violations committed by military elements to remain in legal uncertainty, which is encouraged by the contradictions between the discourses of the different branches of the government.
28. The State should ensure that civilian authorities hear all cases of human rights violations committed by members of the armed forces, providing legal certainty to victims of such violations.
29. The status of investigations of gross human rights violations committed by members of the Army, who have been transferred from military to ordinary jurisdiction, is of particular importance, as these cases continue unpunished. For example, the investigations into the rape and torture committed by elements of the Armed Forces against Inés Fernández Ortega and Valentina Rosendo Cantú nine years ago have not been brought to trial<sup>27</sup>, almost two years after the investigations were transferred to the civilian prosecutor<sup>28</sup>; this mainly because SEDENA refuses to collaborate with the PGR. Resolving cases where military impunity has reigned would guarantee the construction of civilian controls placing human rights of the citizenship above the privileges of the military.

30. The State should ensure that cases of human rights violations committed by the armed forces are diligently investigated and that SEDENA cooperates with all the investigations in which elements of the Armed Forces are involved.
31. According to the constitutional reform decree of June 2008 on the criminal justice system, this must be fully implemented both at the federal and state level by 2016<sup>29</sup>. In Guerrero, as in other states, the reform of the criminal justice system, through which the courts would transit to an oral, accusatorial system, is lagging far behind.<sup>30</sup> Moreover, the reform to the criminal justice system has been centred until now on procedural aspects, leaving aside a review of the catalogue of crimes currently existing in the state.
32. Mexico should ensure that the process of implementation of the criminal justice reform incorporates the specific needs of indigenous people before the justice system, addressing the major vices and abuses that frames the current system and preventing justice operators to replicate these in the new system.
33. The lack of implementation of regulatory frameworks - including the constitutional reform of human rights, which recognises as constitutional rights all human rights contained in the international treaties to which Mexico is a party - exacerbates the structural problems of discrimination and exclusion in a context where rights of indigenous peoples are officially protected by these frameworks, but institutions replicate historical patterns of discrimination.
34. Discrimination by justice system operators; poor and inadequate offer of translators<sup>31</sup> and public defenders who know the language, culture and customs of indigenous communities for the defendants or the victims, at all stages of the judicial process<sup>32</sup>; unaffordable bails for indigenous people; and the long distances they have to travel in order to file a complaint, are just some of the main obstacles that indigenous peoples face to access justice.
35. It is important to mention that the lack of access to justice for indigenous peoples is not only due to the lack of qualified personnel, this factor adds to a racist view from the authorities that reproduces racial hierarchies schemes that permeates the entire Mexican society<sup>33</sup>. In cases of indigenous women the structural racism within State institutions, is aggravated by rooted gender discrimination.
36. The Mexican State must take measures to combat structural discrimination against indigenous peoples in the justice system, which have a particular impact on indigenous women. Moreover, it must take urgent steps to provide efficient translation and public defence services for indigenous people, with an ethnic and cultural perspective.
37. The triple discrimination faced by indigenous women, related to their ethnic, gender identity and marginalised conditions in which they live, is reflected in the re-victimization to which they are subject when they attempt to access the justice system<sup>34</sup>.
38. Mexico has been unable to provide dignified and specialist care with an ethnic, cultural and gender approach for indigenous women<sup>35</sup>. Guerrero is an example of the lack of legal guarantees to protect the dignity, security and privacy of indigenous women through the judicial process, especially in cases of sexual and gender violence. Most judicial institutions are difficult to access for indigenous women, implying high costs to access it and track the processes; there is insufficient information; lack of security for witnesses and judicial protection from the judicial institutions. In its judgments, the IACtHR determined in the paradigmatic cases of Inés Fernández Ortega and Valentina Rosendo Cantú the lack of due diligence in such cases, and



ordered the imminent creation of accurate procedures, specialised for indigenous contexts.

39. The State should adopt the necessary protocols of investigation on sexual violence against women, with an appropriate gender and ethnicity approach, in order to ensure the effective investigation and punishment of violence against indigenous women.

### **iii. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

40. The situation of the human rights defenders in Mexico has continued to deteriorate during the review period. A report by the OHCHR identified the entities with the largest number of reported attacks against human rights defenders are Chihuahua, Chiapas, Oaxaca and Guerrero<sup>36</sup>.

41. In Guerrero, indigenous human rights defenders, including monolingual activists, live in extreme situations of marginalization and poverty, who, because of its organisation and denounces, are subject to acts of aggression and harassment. For example in April 2009, the IACtHR, ordered the Mexican State to grant provisional measures to more than a hundred human rights defenders, due to the real and imminent risk they faced because of their work<sup>37</sup>. These events are a clear sign of the absence of conditions for defenders working in the state; for example, Tlachinollan Human Rights Centre had to close its office for more than two years in Ayutla de los Libres, Guerrero, given the threats received against its members<sup>38</sup>.

42. The response from the State has been negligent in implementing safeguards and guarantees to continue their work. Despite the Law on the protection of human rights defenders and journalists has been issued in June 2012, and the federal government has signed 24 agreements with local authorities for their coordination on this matter, the Mexican State has failed to coordinate actions from different federal and state authorities to implement effective protection measures.

43. Furthermore, the absence of effective investigations and access to justice<sup>39</sup>, reflected in the high levels of impunity in cases of attacks and harassment against human rights defenders<sup>40</sup>, increases their vulnerability and encourages State and non-State perpetrators to continue using such measures as punishment and repression against their defence actions.

44. In contrast, local prosecutors use the criminal justice system to criminalise and falsely accuse activists, in which the investigations are unusual diligent. The judiciary, especially at the local level, are often part of these actions; exemplary cases of such situation have been documented in Guerrero<sup>41</sup>.

45. The State should ensure the coordination between the different levels of government for the effective implementation of protective measures for human rights defenders and it should ensure the effective investigation of assaults, threats and harassment against them, in order to prevent perpetrators to continue such attacks.

### **iv. Right to work and to just and favourable conditions of work**

46. The reality for agricultural seasonal workers, mainly indigenous people from the states with high poverty rates as Guerrero, Oaxaca, Chiapas, Veracruz, is one of the most neglected in Mexico. Several human rights mechanisms have expressed their concern on the various

human rights violations to which this population, estimated in around 3.5 million people, is subjected to. The range of violations is wide, from labour issues<sup>42</sup>, to their conditions below minimum standards and the lack of access to basic services in the agricultural fields<sup>43</sup>.

47. Tlachinollan has documented<sup>44</sup> a multitude of abuses such as unfair dismissals; withholding of wage and documents; excessively long working hours; abuse and discrimination as the seasonal agricultural workers are abundant and cheap labour-force, which force them to accept living under poor feeding, housing and health condition. Women are under more vulnerable conditions, being subject to sexual abuses during their transit to and in the agricultural fields; in addition to their exploitation in the fields and in the household work.

48. The Mexican State must implement administrative, legislative and public policy in order to carry on with abuse prevention measures to secure this population throughout their migration process and in the agricultural fields.

#### **v. Right to social security and to an adequate standard of living**

49. At the national level, 79.6% of the population which speaks an indigenous language lives in poverty and 44.7% in extreme poverty<sup>45</sup>. Guerrero – along with Chiapas and Oaxaca – is one of the states with the highest rate of population living in poverty, 67.6%. The numbers aggravate in indigenous municipalities, such as the Cochoapa el Grande and Metlatonoc, in the Montaña region of Guerrero, where 82.6% and 77% of the population, respectively, live in extreme poverty<sup>46</sup>.

50. Poverty rates are reflected in violations of the right to an adequate standard of living. For example, in regard of access to adequate housing, 51.89% of houses in the indigenous Montaña region do not have tube water<sup>47</sup>, 13.43% do not have electricity, 53.61% do not have drainage, 25.36% are without concrete floor and 38.73% have no toilet<sup>48</sup>.

51. Indigenous peoples face the worst health conditions in the country<sup>49</sup>. The main obstacles faced are the lack of access and poor quality of health care, aggravated by the long distances between communities and health clinics<sup>50</sup>.

52. The highest rates of maternal mortality are disproportionately among indigenous women. The state of Guerrero has the highest maternal mortality rate: 126.7 per 100,000 women born, doubling the national average<sup>51</sup>. Maternal mortality is related to marginality, poverty and policy deficiencies in sexual and reproductive health that do not involve the cultural characteristics of the population.

53. The State should take specific, inclusive and positive discrimination measures, with an ethnicity perspective, to address historical exclusion and discrimination to which indigenous peoples are subject to, aiming to directly impact extreme poverty and allowing them to enjoy their basic rights to access to health, water and adequate shelter.

#### **vi. Right to education and to participate in the cultural life of the community**

54. The states with higher marginality rates in Mexico are those with a significant lag in education, with a greater impact in indigenous areas. Guerrero is one of the states with the lowest index on education<sup>52</sup>. Exclusion in education has precise targets: “poor population receive poor

education.”<sup>53</sup> This structural discrimination replicates historical and structural exclusion in which indigenous peoples live.

55. One of the obstacles for indigenous peoples to access education is the educational investment criteria based on a cost-benefit system, which conditions the installation of an academic institutions to the number of population, and population density, in order to the State to agree to install a school<sup>54</sup>. This system does not take into account that over 70% of the rural communities have around 100 inhabitants, impeding many children and youths to access education<sup>55</sup>.
56. Similarly, education in Mexico does not meet the criteria of availability, acceptability, and adaptability. The faculty is of low quality and a bilingual education promoting cultural diversity is not prioritised in indigenous communities. Deficiencies in the study facilities are not unique for indigenous communities with no access to basic services. The documented situation in the Rural Normal College “Isidro Burgos” in Ayotzinapa is exemplary of the negligence of the State for not providing the minimum hygiene and health conditions for a dignified environment in which the right to education could be enjoyed<sup>56</sup>.
57. It is important to recall that in the case of agricultural workers it is necessary to establish flexible comprehensive policies which allow children who migrate with their families to access quality education<sup>57</sup>.
58. The State, at all levels, should design and implement long-term policies, which seek to eradicate the structural problems of exclusion and discrimination, with a human rights perspective, to reverse the serious educational backwardness suffered by indigenous peoples and agricultural workers.

## **vii. Internal displacement**

59. The Costa Grande region of Guerrero, and especially the region of the Sierra Madre del Sur<sup>58</sup>, is representative of the human security crisis in Mexico, regarding the inability of the State to ensure the safety of citizens and the collusion of the security forces with organised crime.
60. Civil society in this region has been caught in situations of high vulnerability and risk, where the State has been unable to guarantee their fundamental rights. Rising violence has attacked with impunity against life and physical integrity of the inhabitants and defenders of their territory, while the State has not been able to protect them. The situation in regions like Coyuca de Catalán is representative of this situation. Entire families of the community of La Laguna have been displaced from their land because of the persecution they were subject to<sup>59</sup>. The State has been incapable to implement inter-institutional mechanisms and urgent actions, with logic of humanitarian assistance, for the care and protection of displacement victims.
61. The State should implement actions to ensure the security and safety of those people who have been forcibly displaced, recognising their vulnerability, according to international standards on internal forced displacement and opening opportunities for collaboration with international experts in the matter, as the ICRC and / or UNHCR. These measures should ensure the safe displacement and relocation of this population, safeguarding their fundamental rights to life, personal integrity, health, food, housing, education, employment and access to justice.

### viii. Minorities and Indigenous Peoples

62. In Mexico a constitutional reform remains pending, which endorses all demands of the indigenous people, expressed in the San Andres agreements. The Mexican Constitution recognises the right to self-determination in the election and exercise of the indigenous people political issues, leaving its regulation to the local legislation<sup>60</sup>. However, obstacles remain to its full enjoyment, as the State criminalises and uses the judicial system against social movements claiming for indigenous rights to be ruled based on their normative and justice systems, such as in the case of the Regional Coordinator of Community Authorities - Community Police (CRAC-PC)<sup>61</sup>.
63. *The State must respect and guarantee the right to self-determination of the indigenous peoples and respect their normative and justice systems.*
64. There are no protections for indigenous peoples facing State and non-State actors who seek to occupy their territories, giving false pretences of promoting development, due to the lack of legal protection and the lack of consultation mechanisms to defend the right to territory based on the symbolic relationship between earth and its natural resources and indigenous peoples.
65. The Mexican State from 2007 to 2012 granted in 32 mining concessions of up to 50 years, 150,000 hectares of indigenous territory of the Mountain of Guerrero<sup>62</sup>, for exploration and / or exploitation of minerals, without obtaining free, prior and informed consent of the indigenous peoples inhabiting the territory. Another example is the attempt to impose hydroelectric projects in rural areas. The defence of the Council of Ejidos and Communities Opposed to the Parota Dam (CECOP), against a hydroelectric project in the rural area of Acapulco, is exemplary of the collusion of State institutions seeking to impose projects to rural communities<sup>63</sup>. Similarly, State biosphere reserve projects<sup>64</sup> seek to impose, unilaterally and without consultation, natural resources preservation models unrelated to an indigenous worldview, attempting against collective land tenure<sup>65</sup>.
66. Equally concerning is the presence of Armed Forces in indigenous communities, disturbing the peace and tranquillity of the communities.
67. *The State must recognise the right of indigenous communities to decide on fundamental issues of their competence, including the presence of armed forces in their territory – without diminishing the responsibility of the State to maintain order in national territory – establishing consultation mechanisms according to international standards on military activities in indigenous areas<sup>66</sup>.*
68. *Moreover, Mexico should establish a true intercultural dialogue mechanism that enables indigenous peoples to participate and to have a real impact on decision-making processes, thus, setting a two-ways mechanism that allows indigenous peoples and communities to establish their conditions and permeate decisions with their own view<sup>67</sup>, in accordance with international standards on the right to consultation and, free, prior, and informed consent.*
69. Increased mining concessions and the implementation of mega projects in indigenous areas have exacerbated social tensions and environmental costs generating and aggravating existing land disputes and claims. These conflicts often have as background the misinformation from government institutions, lack of consultation and the plundering of natural resources. Agrarian conflicts in the state of Guerrero on historically owned indigenous lands remain unsolved, with no concrete action by the State to solve these<sup>68</sup>. Equally, the situation of indigenous women on

securing land tenure remains a concern<sup>69</sup>.

70. The Mexican State should ensure the protection of indigenous peoples promoting alternative methods of dispute resolutions, in accordance with international standards on human rights and indigenous peoples. In addition, the State should seek to create affirmative policies aiming to reduce inequalities and protect indigenous women from their lack of land tenure.

71. To conclude, it is important to recall that the main issue in Mexico is the increasing gap between the human rights normative framework and the persisting patterns of violations. Thus, the upcoming review much emphasise the implementation and institutional actions from objective and quantifiable data and not only from a legal reform analysis.

#### (Endnotes)

1 I/A Court H.R. *Case of Fernández-Ortega et al. v. Mexico*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of August 30, 2010. Series C No. 215, parr. 79 and, I/A Court H.R. *Case of Rosendo-Cantú and other v. Mexico*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of August 31, 2010. Series C No. 216, parr.71. Available at: <http://www.corteidh.or.cr/casos.cfm>.

2 I/A Court H.R., *Case of Radilla-Pacheco v. Mexico*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 23, 2009. Series C No. 209; I/A Court H.R. *Case of Fernández-Ortega et al. v. Mexico*; I/A Court H.R. *Case of Rosendo-Cantú and other v. Mexico*; and I/A Court H.R., *Case of Cabrera-García and Montiel-Flores v. Mexico*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of November 26, 2010. Series C No. 220.

3 On 9 June 2011, the Mexican President signed the Decree of the Constitutional reform on Human Rights, which modifies Chapter I.1 and reforms a series of articles of the Constitution. The decree was published on 10 June 2011 in the Official Federal Newspaper.

4 It is noteworthy that Mexico, in the last UPR Mexico rejected the recommendation “Review the relevant legal provisions to ensure that all offences committed against human rights by military forces may also be submitted to civil courts (Peru, Uruguay)” See: Human Rights Council. Report of the Human Rights Council on its eleventh sesión. 16 October 2009. UN. Doc. A/HRC/11/37.

5 During the review period see for example: Human Rights Committee. Concluding observations of the Human Rights Committee. Consideration of reports submitted by States Parties under article 40 of the Covenant. Mexico. 7 April 2010. U.N. Doc. CCPR/C/MEX/CO/5.

6 I/A Court H.R., *Case of Radilla-Pacheco v. Mexico*. Operative Paragraph 10; I/A Court H.R. *Case of Fernández-Ortega et al. v. Mexico*, Operative Paragraph 13; I/A Court H.R. *Case of Rosendo-Cantú and other v. Mexico*, Operative Paragraph 12; and I/A Court H.R., *Case of Cabrera-García and Montiel-Flores v. Mexico* Operative Paragraph 15.

7 I/A Court H.R. *Case of Fernández-Ortega et al. v. Mexico*, Operative Paragraph 14; I/A Court H.R. *Case of Rosendo-Cantú and other v. Mexico*, Operative Paragraph 13; and I/A Court H.R., *Case of Cabrera-García and Montiel-Flores v. Mexico* Operative Paragraph 15.

8 On 12 February 2013, the new Amparo Law was passed in the Lower Chamber; however, it was sent to the Senate for its discussion due to the fact that the minute was sent with reservations and modifications on different articles. Thus, it is still a concern that its promulgation continues to be delayed.

9 Tlachinollan presented on the 31st October 2012 formally the “Proposal of a comprehensive reform to prevent, investigate and punish torture in the state of Guerrero”, before the Guerrero Congress, which aims to harmonise the local normative framework with international standards on torture and prevent certain procedural incentives which permit these practices to continue and remain unpunished.

10 On 23 November 2013, the Committee Against Torture, issued its Concluding Observations after the review to Mexico, in which it recalled: “[...]In the State of Guerrero, the definition of the offence of torture is still set forth in a law that is not part of the Criminal Code, as observed by this Committee in its preceding concluding observations (CAT/C/MEX/CO/4)”. Thus it reiterated as a recommendation to: “Incorporate the crime of torture into the Criminal Code of the State of Guerrero”. See: Committee against Torture. Concluding observations on the combined fifth and sixth periodic reports of Mexico as adopted by the Committee at its forty-ninth session. 11 December 2012. UN Doc. CAT/C/MEX/CO/5-6.

11 National Network of Civil Human Rights Organizations “All Rights for All”. Mexico, two years after the Universal Periodic Review. Assessment of Mexico’s compliance with the recommendations issued by the UN Human Rights Council. June 2011.

12 Human rights abuses in Mexico committed by members of the Armed Forces have dramatically incremented since 2006, as direct consequence of the war on drugs. From 1st December 2006 to 30 November 2012, 7,441 complaints against SEDENA were received by the CNDH, resulting in 113 recommendations. See: Sedena Situación de Quejas y Recomendaciones. Available at: <http://www.sedena.gob.mx/images/stories/D.H/2013/Situacionquejasrecomendaciones210113.pdf>

13

According with SEDENA 48.77% of the total operative personnel from the Army and the Air Force is deployed at the time, in operations against organized crime, prioritising those entities in which crime activities have increased, such as Guerrero. See. SEDENA. Situación de Quejas y Recomendaciones. Enero 2013. Available at:

<http://www.sedena.gob.mx/images/stories/D.H/2013/Situacionquejasrecomendaciones210113.pdf>

14

Bonfilio Rubio Villegas, a young indigenous nawa man extrajudicial executed by elements of the Mexican Army in June of 2009 at a military checkpoint, near Huamuxtitlan, Guerrero, after they shot to the bus in which he travelled. Relatives of Bonfilio Rubio Villegas, accompanied by Tlachinollan, brought their case all the way to the SCJN, which on 21<sup>st</sup> August 2012, in a historical decision declared article 57 of the Military Code of Justice unconstitutional and set a precedent in the access to justice of relatives of victims of human rights violations, by recognising their active legitimacy in an *amparo* trial, and ordering the investigation into the execution to be sent to the ordinary jurisdiction. This is a historical judicial precedent; however, the SCJN has not set obligatory and firm jurisprudence on military jurisdiction.

15 On 26 October 2010, Abraham Sonora Ortega, a 17 years old indigenous youth, was executed by members of the Armed Forces in his community San Juan Bautista Cuapala, Atlixac, Guerrero, while he was looking for his donkey. During the following days, SEDENA misinformed about the events with photos of Abraham's, stating that he was taking care of illegal puppy fields and when he saw the soldiers, he attacked them. The CNDH issued the recommendation 67/2011 on the case, observing, there were violations to the rights to life, legality, judicial guarantees, integrity, personal security, access to justice, due diligence for the acts of deprivation of life, arbitrary use of force, and wrongful exercise of public service committed by elements of the Armed Forces and of the Guerrero Attorney General's Office (PGJE). The recommendation also emphasise the alteration of the crime scene; however, it does not mention the obligation of the State to limit the jurisdiction of the Military justice system in cases of violations of human rights such as this one.

16 During the events, two students were shot to death by security forces. Likewise, officers of various police bodies arbitrarily detained 42 persons, 24 of which were beaten with sticks and their weapons and one student was subject to torture.

17 After investigating the events, on 28 March 2012, the CNDH released its Special Recommendation 1 VG/2012, the first of its kind. The recommendations No. 1/VG/2012, on the investigation of the events of 12 December 2011, in Chilpancingo Guerrero is available at: [http://www.cndh.org.mx/Recomendaciones\\_Violaciones\\_Graves](http://www.cndh.org.mx/Recomendaciones_Violaciones_Graves).

18 According to information of the National Commission on Human Rights (CNDH), among those who participated were 239 elements assigned to the Federal Ministry of Public Security, the Guerrero state Ministry of Public Security and Civilian Protection, and the Guerrero state Attorney-General's Office. Out of these, 91 authorities carried firearms, while it was proven that the protesters did not carry any firearms.

19 The CNDH observed that the Federal Police, the Guerrero state Ministerial Police and Preventative Police, respectively, all carried out cruel and indignant treatment to the victims. Specifically, in regards to the torture, among the detained students was the case of Gerardo Torres Pérez, of 19 years of age, student of the Rural Normal College School "Raúl Isidro Burgos" who was falsely accused of firing a high calibre firearm, an AK-47, with the objective of fabricate evidence. The CNDH concluded that, based on the evaluations carried out on the victim, he presented positive signs and symptoms of torture, laying responsibility for the human rights violation on the ministerial police assigned to the Guerrero state Attorney General's Office that had the student in their custody. Nonetheless, to date, no authority has been sanctioned for these acts. The investigations for the crime of torture were never initiated, as torture is not codified in the state Criminal Code, and the CNDH determinations were not considered sufficient evidence; the Istanbul Protocol was not applied; and additionally, the lack of due diligence from the public prosecutor and the lack of ordering security measures, permitted the victim to receive threats and pressure to withdraw the charges.

20 Its adoption in 2003 aimed to "harmonise" the Istanbul Protocol through the Medical / Psychological Expert Report in cases of possible Torture and / or Mistreatment.

21 Tlachinollan data obtained, through the available mechanism of access to public information in Mexico a series of data regarding the performance of PGR, CNDH and SEDENA in torture cases. To see all the relevant data, please see the Addendum 1, to the shadow report presented by Tlachinollan to the CAT on its 49<sup>th</sup> session for the review of Mexico. Available at: [http://www2.ohchr.org/english/bodies/cat/docs/ngos/CDHM\\_Tlachinollan\\_info\\_CAT49-MEX\\_add.1\\_sp.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/CDHM_Tlachinollan_info_CAT49-MEX_add.1_sp.pdf)

22

For example, according to figures from the General Inspector's Office of the PGR, from January 2002 to June 2012, "39 preliminary inquiries into the crime of torture were initiated, out of which 3 ended with non-exercise of criminal action, and in 0 preliminary inquiries, it was decided the exercise of criminal action. Therefore, there has been no arrest warrant issued by this authority". Additionally, the Deputy Attorney General's Office of Special Investigations into Federal Crimes, stated that "it was possible to identify 29 preliminary inquiries initiated by the crime of torture", in regard to acts imputed to 111 public servants, out of which none has been presented before a Court, without specifying the time period corresponding to this information. In regard to the forensic capabilities, the PGR informed, it employs 185 experts in the field of forensic medicine, out of which "all the experts assigned to the General Direction for the Coordination of Expert Services are trained to the use Medical / Psychological Expert Report in cases of possible

Torture and / or Mistreatment". Regarding the number of occasions on which the PGR's experts have been requested to practice the Medical / Psychological Expert Report in cases of possible Torture and / or Mistreatment, the institution replied that "when the medic or psychological experts receive a requests to practice the Medical / Psychological Expert Report in cases of possible Torture and / or Mistreatment, they record these in the register of intervention requests; therefore, from the entry into force of the Agreement A/057/2003 until July 2012, there are 302 interventions registered by experts in cases of possible torture and / or mistreatment". Of the 302 cases in which, according to figures from PGR, official experts have practiced the Medical / Psychological Expert Report in cases of possible Torture and / or Mistreatment, "it had recorded 128 cases with injuries that were possibly derived from torture and / or mistreatment". In contrast, the PGR has registered 174 "negative" cases (with no result of injuries)". The data that this query throws shows the reality of the Medical / Psychological Expert Report in cases of possible Torture and / or Mistreatment, as a mean of evidence intended to expedite the investigation and punishment of torture. Leaving aside the relatively low number of cases in which it has been reported torture, which could be attributed to the incorrect application of the guidelines of the Istanbul Protocol; the contrast between the number of times the Expert Report has throw positive for torture and the absence of convictions is enormous: notwithstanding in 128 cases it has been found that torture took place, there is no conviction. If, as claimed by the Federal Government, Medical / Psychological Expert Report in cases of possible Torture and / or Mistreatment is a tool aiming for torture victims access to justice; certainly, the difference between the cases where the application of this instrument resulted in positive findings and the number of cases brought to a judicial authority or cases with convictions, would be much lower. To review all the registration of all information requests see Tlachinollan shadow report presented before the Committee against Torture in its 49<sup>th</sup> session. Available at [http://www2.ohchr.org/english/bodies/cat/docs/ngos/CDHM\\_Tlachinollan\\_info\\_CAT49-MEX\\_en.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/CDHM_Tlachinollan_info_CAT49-MEX_en.pdf) and its Addendum [http://www2.ohchr.org/english/bodies/cat/docs/ngos/CDHM\\_Tlachinollan\\_info\\_CAT49-MEX\\_Add.1\\_en.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/CDHM_Tlachinollan_info_CAT49-MEX_Add.1_en.pdf)

23

During the same period, the Coddehum received 52 claims of torture, 41 of inhuman, cruel and degrading treatment, and 275 of injuries. HRW. Neither Rights nor security. 9November 2011. P. 53 - 58. Available at: <http://www.hrw.org/reports/2011/11/09/neither-rights-nor-security-0>

24

On 4 October 2011 it was published in the Federation Official Newspaper the resolution on the file Various 912/2010, in which the SCJN determined on military jurisdiction that: "military jurisdiction cannot operate under any circumstance before situations which violate human rights of civilians". SCJN. File Varios 912/2010, parr. 44.

25

See, Op.cit xv.

26

It is noteworthy that Mexico, in the last UPR Mexico rejected the recommendation "Follow-up on the recommendations of Committee against Torture and OHCHR to empower civil courts to try offences against human rights, in particular torture and cruel, inhuman or degrading treatment committed by military personnel, even when it is claimed that they were service-related (Portugal)" and it considered that "it did not apply" or "it has been solved" the recommendations related to "Grant jurisdiction to its civil authorities/ courts over the acts/human rights violations committed by members of armed forces when performing law enforcement functions. (Republic of Korea, Russian Federation);if the military involvement in combating organized crimes is necessary, the expanded role of the military must be counterbalanced by measures to reinforce the protection of human rights." (Republic of Korea) "Ensure that the primacy of the civil legal system prevail over military judicial process across the entire territory (Bangladesh)" and "Extend the jurisdiction of civil courts in cases involving violations of human rights by the military. See: Human Rights Council. Report of the Human Rights Council on its eleventh session. 16 October 2009. UN. Doc. A/HRC/11/37.

27

Inés Fernández Ortega y Valentina Rosendo Cantú, two Me'phaa indigenous women – at the age of 25 and 17 years old respectively – were raped and tortured by elements of the Mexican armed forces in the state of Guerrero in 2002. Their pursuit for justice reached the IACtHR, which issued on 1st October 2010, two rulings which contain 17 and 16 reparation measures, with individual, family, collective, structural and community features, for the gross violations of human rights committed in their grievance. In the operative paragraph 10 in the judgment Valentina Rosendo Cantú and the 11 in the case Inés Fernández Ortega order: The State must conduct in the ordinary jurisdiction, effectively and within a reasonable period of time, the investigation, and where necessary, the criminal procedures in relation with the rape of Mrs. Rosendo Cantu, in order to determine those criminally responsible and to apply, where necessary, the punishment and consequences that the law dictates. I/A Court H.R. Case of Fernández-Ortega et al. v. Mexico, Operative Paragraph 11 and ; I/A Court H.R. Case of Rosendo-Cantú and other v. Mexico, Operative Paragraph 10.

28

The investigations have been under the jurisdiction of PGR since August 2011, when the files were transfer from the Military Attorney General's Office. PGJM. on 15 September 2011, Valentina Rosendo Cantú and Inés Fernández Ortega were officially notified that the PGR had turned over records to the Special Prosecutor for Crimes of Violence against Women and Human Trafficking (FEVIMTRA).

29

See. Transitory Article 2. Decree through which it has been reformed diverse dispositions in the Mexican Constitution, published at the Federal Official Journal on 18 June 2008. Available at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5046978&fecha=18/06/2008](http://dof.gob.mx/nota_detalle.php?codigo=5046978&fecha=18/06/2008).

30

According with the Due Process and Law Foundation. "There is a severe absence of official information about the processes of reform, combined with the lack of outreach and transparency toward the civilian population, which does not allow human rights organisations to attest their crucial role in the defence of the rights of indigenous peoples. Due Process and Law Foundation "La protección de los derechos de los Pueblos Indígenas a través de un nuevo sistema de justicia penal Estados de Oaxaca, Chiapas, Guerrero", 2012, p. 56. Available at: [www.dplf.org/uploads/1337272027.pdf](http://www.dplf.org/uploads/1337272027.pdf)

31

The indigenous populations are particularly vulnerable to this violation of their rights due to the lack of translators and the disproportionately high number of different indigenous languages spoken in this region". Even the Mexican authorities accept that "the lack of funds to procure translators undermined the justice system's ability to implement the legislation and has continued to exacerbate the indigenous communities' lack of faith in the criminal justice system". Bar Human Rights Committee of England and Wales. Recalling the Rule of Law: Report of the lawyers' delegation to Mexico A report on the protection of human rights defenders

and the rule of law in the states of Guerrero and Oaxaca, Mexico, July 2010 p. 22. The Mexican government has attempted to reform a series of legislation to protect indigenous languages, for example, the mentioned "*Law on Linguistic Rights of Indigenous Peoples under which indigenous persons are entitled to use interpreters in the administration of justice*" establishes 62 indigenous languages as national languages. In addition, article 10 of this law, establishes that indigenous persons are entitled to use interpreters in the administration of justice; however these laws remain rather symbolic and have not been properly implemented.

32 The State has acknowledged during the last UPR that "Mexico still faces the difficult task of effectively providing counsel and qualified translators and interpreters for all trials and procedures in which indigenous language-speakers are a party". National report submitted in accordance with paragraph 15(A) of the annex to Human Rights Council resolution 5/1, 10 November 2008 (A/HRC/WG.6/4/MEX/1) para 120.

33 Hernández , Aída and Ortiz Elizondo Héctor. Anthropological Experts' report for the Inter-American Court of Human Rights in the case of *Inés Fernández Ortega and others vs. Mexico*. April 2010. p.14

34 Ibid. p.13.

35 Dignified treatment requires in cases related to indigenous people "respect in the acts of the authorities to cultural differences and the duty to take into account customs and the indigenous customary law, in order to facilitate the participation of the victim in the process as a mean of proof and as subject of rights". Perlin, Jan Esq. Expert's report on the situation of access to justice for indigenous people, for the Inter-American Court of Human Rights in the case of *Inés Fernández Ortega and others vs. Mexico*. March 2010.p. 4.

36 The United Nations Office of the High Commissioner for Human Rights in Mexico registered between 2006 and August 2009, 128 attacks and aggressions against human rights defenders in Mexico, including 10 homicides. In its updated report presented in November 2010, it registered that from September 2009 to October 2010, 37 aggressions were committed in Mexico against human rights defenders. United Nations Office of the High Commissioner for Human Rights. "Defender los derechos humanos: entre el compromiso y el riesgo. Informe sobre la situación de las y los Defensores de Derechos Humanos en México. 2010.

37 The provisional measures were issued as direct consequence of the enforced disappearance and execution of president and secretary of the Organisation for the Future of Mixteco People, Raúl Lucas Lucía y Manuel Ponce Rosas on 13 February 2009. The bodies of both defenders were found seven days later with visible signs of torture. On 7 April 2009. The Inter-American Commission on Human Rights requested the IACtHR to order the Mexican State to grant provisional measures to protect the life and personal integrity of Obtilia Eugenio Manuel and her family; of the members of the Organisation of the Indigenous Me'phaa People, OPIM, of Inés Fernández Ortega and her family; of the members of Tlachinollan; as well as of the next-of-kin of Mr. Raúl Lucas Lucía and Manuel Ponce Rosas. See: I/A Court H.R. Fernández Ortega et al. respecting to Mexico. Available at: [http://corteidh.or.cr/docs/medidas/fernandez\\_se\\_06.pdf](http://corteidh.or.cr/docs/medidas/fernandez_se_06.pdf)

38 The office was reopened after a series of risk assessments in June 2011m its personelle are beneficiaries of the provisional measures *Inés Fernández Ortega et al* ordered by the IACtHR

39 Only in the framework of the provisional measures of Inés Fernández Ortega et al, there has been 18 inquiries opened for aggressions, threats and harassment against the beneficiary human rights defenders and no one has been held responsible for these acts.

40 According with the OHCHR, impunity rate in this cases is of 98%. . United Nations Office of the High Commissioner for Human Rights. "Defender los derechos humanos: entre el compromiso y el riesgo. Informe sobre la situación de las y los Defensores de Derechos Humanos en México. 2010.

41 For example, on 11 April 2008, a judge of Ayutla de los Libres, Guerrero, issued 15 arrest warrants against members of the Organisation of Me'phaa Indigenous Peoples, and on 17 April, five of them were detained accused of a crime they did not commit. Later on, Raúl Hernández Abundio, Manuel Cruz Victoriano, Orlando Manzanares Lorenzo, Natalio Ortega Cruz and Romualdo Santiago Enedina were declared prisoners of conscience by Amnesty International. In the case of Raúl Hernández his unjust detention lasted until August 2010.

42 For example, 90% of the population work without a formal contract. Special Rapporteur on the Right to Food, Mr.. Olivier De Schutter. Mission to Mexico, 13 -20 June 2011, Final Declaration during the mission.

43 Report of the Special Rapporteur on the human rights of migrants, Mr. Jorge Bustamante. Mission to México. A/HRC/11/7/ Add.2 24 March 2009. Párr. 25,45-46. Human Rightst Council. Report of of the Special Rapporteur on the right to Education, Mr. Vernor Muñoz. Addendum. Mission to Mexico 8 to 18 February 2010. 2 June 2010. UN Doc. A/HRC/14/25/Add.4 Párr.66,108; Human Rightst Council. Special Rapporteur on the Right to Food, Mr.. Olivier De Schutter. Mission to Mexico. Addendum. Mission to Mexico. 17 January 2012. UN Doc. A/HRC/19/59/Add.2. Párr. 28-30.

44 See, Tlachinollan, *Migrar o Morir* [Migrate or Die]: <http://www.tlachinollan.org/Archivos/Migrar%20o%20morir.pdf>

45 Indigenous population in Mexico represents 14.9% of the total national population. According to official information, in Mexico, 6 out of 100 people of more than 5 years speak an indigenous language. There are 89 recognised indigenous languages at the national level. The 257 indigenous municipalities in Mexico have a percentage over 55% of its population in poverty, and in 251 of these, 70% of the population live in poverty. The 15 municipalities with the highest number of deficiencies and living in poverty are indigenous municipalities. National Council of Evaluation of Social Development Policies. (CONEVAL), Informe de Pobreza. en México 2010: el país, los estados y sus municipios. México, D.F. CONEVAL, 2012. P. 26.



46 CONEVAL. Informe de Pobreza en México 2010: el país, los estados y sus municipios. Mexico, D.F. CONEVAL, 2012. P. 14, 73.

47 For example, the case of Tecoanapa is representative of the demands of the indigenous people to access basic services and to demand their right to water. Since 2005, the Board of Officers of the five towns of Tecoanapa, accompanied by the Regional Human Rights Centre Jose Maria Morelos y Pavon, have conducted a series of negotiations and demands for access to drinking water. The local Human Rights Commission- Coddehum following the complaint filed by the five towns, concluded in February 2010 after an extensive investigation, that state and local governments are violating the rights to water, health and a healthy environment to the detriment of the residents of the five villages and issued a recommendation to the government of Guerrero and Tecoanapa municipality, in the sense of completing the infrastructure works, ensuring the right to water, health care for the diseased populations, mitigate and reverse the pollution of the river, among other provisions. These recommendations were accepted but not implemented.

48 INEGI Censo de Población y Vivienda. Mexico, 2010.

49 The 49.8% of the indigenous population of Guerrero is entitled to health services, and 43.8% of the beneficiaries are enrolled in the "Seguro Popular" CDI. Sistema de indicadores sobre la población indígena de México con base en: INEGI Censo de Población y Vivienda. Mexico, 2010.

50 For example, in the Montaña region, the average is one medical unit for 1,706 people. The number of medical personnel is of 437, which means 1 for each 827 inhabitants. INEGI Censo de Población y Vivienda, México, 2010.

51 UNDP. 2010. Las mujeres y el Presupuesto Público en México. Mexico. DF. Available at: [http://www.undp.org.mx/IMG/pdf/Las\\_mujeres\\_y\\_el\\_presupuesto\\_publico\\_en\\_Mexico.pdf](http://www.undp.org.mx/IMG/pdf/Las_mujeres_y_el_presupuesto_publico_en_Mexico.pdf)

52 In Guerrero 57.98% of the population over 15 years old are in backlog, 20% cannot read and write, 38% have not completed basic education. These figures increase in Guerrero's indigenous regions, 41% are illiterate, contrasting with 13% of the non-indigenous population. These numbers aggravate in indigenous municipalities such as Cochoapa where 96.68% are illiterate. CONEVAL. Informe de Pobreza en México 2010: el país, los estados y sus municipios. México, D.F. CONEVAL, 2012.

53 UN Doc. A/HRC/14/25/Add.4 Párr.66.

54 For example the case of the Me'phaa indigenous community of Buena Vista, in Atlixac, Guerrero, which spent more than 10 years of fruitless administrative procedures before the Guerrero state Education Ministry, demanding the installation of an indigenous pre-school centre. Given the omissions of the State education authorities, on 21 June 2012, the Buena Vista community presented an *amparo* lawsuit accompanied by Tlachinollan, to demand judicially the children's right to education. On 29 June 2012, the lawsuit was admitted, initiating the trial 893/2012, under the First Judge of District in Chilpancingo, Guerrero. For more information see: <http://www.tlachinollan.org/Buena-Vista.html>

55 UN Doc. A/HRC/14/25/Add.4 pa. 68 and 72.

56 The recommendations No. 1/VG/2012, on the investigation of the events of 12 December 2011, in Chilpancingo Guerrero, p. 437 -438. Available at: [http://www.cndh.org.mx/Recomendaciones\\_Violaciones\\_Graves](http://www.cndh.org.mx/Recomendaciones_Violaciones_Graves).

57 UN Doc. A/HRC/14/25/Add.4 Párr. 108.

58 The region of the Sierra Madre del Sur is one of the areas with abundant wealth in terms of natural resources and minerals; historically the wood resources have been pursued for their irrational exploitation, causing the emergence of groups of criminal groups who act in collusion with organised crime groups and the State agents, which have taken over this area to have strategic control of this territory for the production and transportation of drugs, due to its strategic location.

59 The exacerbated violence in parts of the Costa Grande of Guerrero is reflected in the situation of La Laguna and the persecution of the Villa Santana family. After the murder of Ruben Santana Alonso Juventina Villa Dona's husband, who was opposed to the over exploitation of the forests, on February 18, 2011 her son Sergio Santana Villa was assassinated. At least five more relatives of Mrs. Juventina were killed in the following year, while Mrs. Villa denounced along with others in the community before the state authorities the situation of vulnerability and risk in which they lived. The population of the Laguna held meetings with high-level authorities at the end of 2012, including the Guerrero Minister of Interior, given the lack of guarantees in their community as they received more threats. The people demanded that the state government enabled temporary shelters for the displaced people, which the Minister utterly rejected. On 26 November 2012a meeting was held again with state authorities, which agreed to the temporary transfer of the inhabitants of La Laguna to Puerto Las Ollas, in the early hours of Wednesday 28, for which the state government should implement all necessary actions. This agreement was not met and as a result that day, Mrs. Juventina Villa Mojica and his son were killed, despite the fact that since 2011, she had been reporting to the authorities of state killings, threats, harassment, and the conditions of widespread violence in which they lived in La Laguna. Neither the dialogue with the State Government or the intervention of human rights organisations reduced the violence. The Regional Human Rights Centre José María Morelos y Pavón developed an emergency plan for families in the community La Laguna which was only accepted by the state of Guerrero, after the murder of Mrs. Juventina Villa.

60 Mexican Constitution, Article 2.

61 Created more than 17 years ago, on the basis of the right of indigenous peoples to autonomy and self-determination,

the CRAC – PC system, which incorporates Na Savi and Me'phaa communities of Costa-Montaña region, is an example of that the success of any security policy must be created in proximity to population, the care of community fabric and legitimacy built on honesty, accountability and service to the community. However, the CRAC-PC has not been free from persecution, de-legitimisation of their justice system and the criminalisation of their leaders. These acts violated the Law Number 701 of Recognition, Law and Culture of indigenous peoples and communities of the state of Guerrero, which legally recognises the community policing system, in accordance with the recognition of normative systems of indigenous peoples and communities, and in its Article 37 recognises the existence of indigenous justice system-Mountain Coast. Law 701 is available at: <http://i.guerrero.gob.mx/uploads/2012/07/24-Ley-701-RecDerCultura-Ind.pdf>

62 The total of the hectares given on mining concessions in the Montaña Alta region are equal to 25% of the territory of the indigenous region and 80% of the concessions are for open pit mining.

63 The Council of *Ejid*os and Communities Opposed to the Parota Dam (CECOP) have led more for than ten years a struggle against the imposition, by the Federal Electricity Commission (CFE) and other State actors, a hydroelectric project legally, environmentally and socially unviable in the rural part of Acapulco. Peasants and *ejidatarios*, accompanied by the Human Rights Centre Tlachinollan received five favourable decisions against the construction of the dam by Agrarian Tribunals, recognising that they are the ones with the legal right and the social legitimacy to decide on the use of their land. However, every year, the federal government includes in its federal budget, an amount to CFE for the construction of the dam. For more information see: <http://www.tlachinollan.org/NoaLaParota/noalaparota.html>

64 The biosphere reserves are created by presidential decree, without the prior consent of the communities inhabiting the territory. By the decree it is attempted to regulate the activities that can take place in the territory according to General Law of Ecological Balance and Environmental Protection, its normative and its environmental planning programmes. These are subject to special protection, conservation, restoration and development, according to categories established by Law.

65 Indigenous Me'phaa communities from the Montaña region, organised against the imposition of the reserve decrees, have denounce the lack of consultation and more importantly, they have also emphasised that the natural resources wealth in the region is due precisely to the presence in the territory of indigenous peoples, which relate to nature with a worldview which does not include the predatory exploitation of its resources. Thus, preservation is unthinkable without their presence and participation.

66 Article 6 of ILO C169 and article 30 of the UN Declaration on the Rights of Indigenous Peoples.

67 OHCHR Mexico, "El derecho a la consulta de los pueblos indígenas: la importancia de su implementación en el contexto de los proyectos de desarrollo a gran escala", 2011, p. 25.

68 For more information, on the agrarian conflicts which remain active in the Montaña region, see Tlachinollan's report to CERD. Available at: : [http://www2.ohchr.org/english/bodies/cerd/docs/ngos/Tlachinollan\\_Mexico80.pdf](http://www2.ohchr.org/english/bodies/cerd/docs/ngos/Tlachinollan_Mexico80.pdf)

69 Human Rights Council. Concluding observations of the Committee on the Elimination of Discrimination against Women. Mexico. 13 February 2012. UN.Doc. A/HRC/WG.6/4/L.13 pa. 34-35