

**Tlapa de Comonfort, Guerrero. June 2014**

**Information for the Human Rights Committee for its 111th Session and the adoption of List of Issues on Mexico**

**Members of the Human Rights Committee:**

Regards from the Human Rights Centre “Tlachinollan”, a non-governmental organisation dedicated for 20 years to the defence and promotion of human rights of the Naua, 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.

In this occasion we send information to the Human Rights Committee on two main issues to consider in the adoption of List of Issues on Mexico, to be adopted in its upcoming 111th Session. First, the issue of the situation of indigenous peoples’ right to self-determination and consultation; and secondly, on the issues of militarisation of public security.

**1. HRC Recommendation**. [22] **The State party should consider reviewing the relevant provisions of the Constitution reformed in 2001, in consultation with indigenous peoples. It should also take all necessary steps to ensure the effective consultation of indigenous peoples for decision-making in all areas that have an impact on their rights, in accordance with article 1, paragraph 2, and article 27 of the Covenant.**

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[[1]](#endnote-1). 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)[[2]](#endnote-2).

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.

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[[3]](#endnote-3), for exploration and / or exploitation of minerals, without obtaining free, prior and informed consent of the indigenous peoples inhabiting the territory.. Similarly, State biosphere reserve projects[[4]](#endnote-4) seek to impose, unilaterally and without consultation, natural resources preservation models unrelated to an indigenous worldview, attempting against collective land tenure[[5]](#endnote-5).

Equally concerning is the presence of Armed Forces in indigenous communities, disturbing the peace and tranquillity of the communities.

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[[6]](#endnote-6).

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[[7]](#endnote-7), in accordance with international standards on the right to consultation and, free, prior, and informed consent.

**2. HRC Recommendation: [11] The State party should take all necessary steps to ensure that public security is, to the maximum extent possible, upheld by civilian rather than military security forces. It should also ensure that all allegations of human rights violations committed by armed forces are duly investigated and prosecuted by civil authorities.**

The involvement of the Armed Forces in public security actions and public spaces in civilian life has generated increasing violence and human rights violations[[8]](#endnote-8). The military logic and military intervention in the control of public order[[9]](#endnote-9) are opposed to the international human rights obligations of the Mexican State.

Paradigmatic examples of gross human rights violations committed by armed forces as the case of the extrajudicial executions of Bonfilio Rubio Villegas[[10]](#endnote-10) and of Abraham Sonora[[11]](#endnote-11) are proof of it.

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.

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[[12]](#endnote-12). The CNDH[[13]](#endnote-13) in its special recommendation, regarding the events, documented the excessive force and firearms with the objective of repressing the protest[[14]](#endnote-14); 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.

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.

1. Mexican Constitution, Article 2. [↑](#endnote-ref-1)
2. 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>

   [↑](#endnote-ref-2)
3. 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. [↑](#endnote-ref-3)
4. 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. [↑](#endnote-ref-4)
5. 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. [↑](#endnote-ref-5)
6. Article 6 of ILO C169 and artilce 30 of the UN Declaration on the Rights of Indigenous Peoples. [↑](#endnote-ref-6)
7. 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.   [↑](#endnote-ref-7)
8. 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> [↑](#endnote-ref-8)
9. 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> [↑](#endnote-ref-9)
10. Bonfilio Rubio Villegas, a young indigenous naua 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, brough their case all the way to the SCJN, which on 21st 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. [↑](#endnote-ref-10)
11. 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, Atlixtac, 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. [↑](#endnote-ref-11)
12. During the events, two students were shot to death by security forces. Likewise, officers of various police bodies arbitrarily detained 42 persons, 24 of whom were beaten with sticks and their weapons and one student was subject to torture. [↑](#endnote-ref-12)
13. After investigating the events, on 28 March 2012, the CNDH released its Special Recommendation 1 VG/2012, the first of its kind. available at: <http://www.cndh.org.mx/Recomendaciones_Violaciones_Graves>. [↑](#endnote-ref-13)
14. 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. [↑](#endnote-ref-14)