

**Testimony of Tlachinollan Human Rights Center
Before the Tom Lantos Human Rights Commission in the U.S. House of Representatives
May 10, 2012**

1. Introduction

My name is Santiago Aguirre. I work as a lawyer in Tlachinollan Human Rights Center, an NGO based in Tlapa, Guerrero, in the south of Mexico, on the Pacific Coast¹.

I appreciate the opportunity to be here with you today. For the human rights movement in Mexico and for us in Guerrero it is very significant to share with you an assessment of what is going on in Mexico.

I will focus my testimony on Mexico's current human rights situation as a result of the "war on drugs", emphasizing the issues related with US assistance. First, I will briefly summarize the effects of the Calderon administration's security policy, considering that it is now close to its end. Then, I will point out four priority issues of concern in which the role of the US is relevant: the function of the military; accountability for police abuses; justice reform; and human rights defenders' and victims' security.

1. Less security, more abuses: the legacy of the Calderon Administration

Almost six years ago, President Felipe Calderón declared "war" on organized crime in Mexico. Around the world and here in the US, that decision was seen as a brave posture. But many of us in Mexico were skeptical: We knew that the Mexican justice and security system were endemically flawed and that organized crime wasn't a clearly located enemy but that rather it overlapped with authorities at almost every level. We knew, also, that Mexican security forces, and especially the army, had a catastrophic record of unpunished human rights abuses, a legacy that has never been changed.

But none of us could imagine the extent of the human rights impacts that this policy would have: almost six years later, more than 50,000 people have died in killings caused by this so called war²; nearly 160,000 people have been displaced from their homes and not a few of them are looking for asylum here in the US³; more than 3,000 people have disappeared⁴, in a context of widespread and generalized human rights violations such as torture, killings, and fabrication of

¹ Since 1993, Tlachinollan defends and promotes human rights in la Montaña (the Mountain) an indigenous region that has Mexico's poorest communities. Serving as a multi-lingual and diverse space, Tlachinollan works with indigenous victims of police and military abuses, among others, advocating at the local, national and Inter – American level. In 2010, Tlachinollan's founder Abel Barrera received the Human Rights Robert F. Kennedy award. (www.tlachinollan.org)

² While the Mexican federal government doesn't report anymore the accumulated number of killings caused by the drug war, the national press keeps doing its own research. The national journal Milenio, for instance, published some weeks ago that between December 2006 and April 2012, the number of murders related with this war reaches 50,093, of which 3,138 were committed on the first three months of 2012.

See: <http://www.milenio.com/cdb/doc/noticias2011/e016369f45ae5ebb73d8b8aad4dbaa71>

³ According to the International Displacement Monitoring Centre. See Mexico's page in: www.internal-displacement.org

⁴ According to the UN Working Group on Enforced or Involuntary Dissapearences, which visited Mexico last year, that is the number of dissapearences refered by civil society organizations in Mexico. The Working Group stated, however, that the number is uncertain because of the lack of investigations when these dissapearences are denounced. See: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-58-Add2_en.pdf.

false criminal charges against innocent people, all of which remain unpunished. Meanwhile, in spite the dramatic increase in violence, the drug cartels aren't losing their power even though some of their well-known leaders have been detained.

After almost six years it is clear that President Calderon's effort to combat organized crime, with the military as the centerpiece, is not the solution to the crisis of violence but rather it has contributed to the violence itself.

While it is true that the drug cartels are committing violent crimes, it is false that in Mexico there is a war between good and evil. In states like Guerrero, where I live, the line between the government and the criminals is hard to find: the infiltration of organized crime into Mexican institutions is entrenched and increasing.

Over the last few years, this Honorable Congress has recognized the shared responsibility of the US and Mexico regarding security, especially by means of the Merida Initiative. As Calderon's administration is coming to an end, it is time to evaluate the efforts taken in the frame of this shared responsibility.

From the human rights perspective, I will present four specific concerns.

2. Five specific concerns

2.1 Stop the use of the army as the centerpiece of the security policy

The use of the army as the centerpiece of the war against drugs has never been as intense as in Calderon's administration. As a direct consequence, human rights abuses committed by the military have been increasing dramatically since 2006. According to the Mexican National Commission for Human Rights, complaints of abuses passed from 367 in 2007 to 1,700 in 2011. These gross violations include torture, forced disappearances, and extrajudicial killings.

In states like Guerrero army abuses have specific impacts in rural and indigenous communities. Often, Mexican soldiers abuse indigenous peoples; they enter their homes, stealing their food and belongings. We've documented case of rape and torture by soldiers, such as the cases of Inés Fernández and Valentina Rosendo. The cases have been resolved by the Inter-American Court of Human Rights, but the soldiers responsible remain unpunished as Mexico fails to implement the Court's binding sentences.

No one is safe in this context: in a recent visit of the Robert F. Kennedy Human Rights Center to Guerrero, Ms. Kerry Kennedy and her daughter were arbitrarily detained at a roadblock by the army while traveling with us on a rural Guerrero road; when we pointed at that this was illegal, the soldier simply responded, "I am the authority here"⁵.

In the drug-war the military deployment has never been accompanied by accountability. When military officers are accused of human rights violations the army's own investigators and courts keep the cases under their jurisdiction; the result is impunity. Although many international human rights mechanisms have indicated that Mexico must reform the Military Code of Justice to end military impunity - today the military retain the privilege of a justice system that guarantees impunity. Just a few weeks ago, after a reform of the Military Code of Justice had been approved

⁵ See: http://rfkcenter.org/index.php?option=com_content&view=article&id=1544%3Aget-your-boot-off-myneck&catid=181%2C258%3Arfk-center-in-the-news-news&Itemid=340&lang=en

in Senate commissions and sent to the full Senate, high-ranking representatives of the army made known to the Senators that they disagreed with including the phrase “human rights violations” in the Military Code of Justice. The Senators bowed to the wishes of the army and simply cancelled the vote on the reform, showing the alarming extent of power of the military in Mexico’s government.

Thus, regardless of international rulings and Merida Initiative requirements, currently victims still will have to fight in the courts to try to get their cases out of the military jurisdiction, as has happened in the Bonfilio Rubio Villegas case. Rubio Villegas was a young indigenous man who was shot and killed by the army in Guerrero in 2009 when soldiers fired at the bus he was traveling in as it left a checkpoint. Although President Calderon gave an executive order for the army to turn over its cases to civilian jurisdiction and a federal judge had determined that the case be heard in civilian jurisdiction, the army appealed the court ruling saying that neither the Supreme Court nor the Interamerican Court orders in this issue were binding to the military; furthermore, they stated in the name of Felipe Calderón that the extrajudicial killing of Mr. Rubio was not a human rights violation. The case is now in the Supreme Court and may become the first binding Supreme Court ruling against military jurisdiction.

Military deployment makes civilian institutions weaker, especially the police, as I will show now by pointing out our second concern which is the need to enforce accountability for police abuses.

2.2 Enforce accountability for police abuses

The army is not the only security force committing human rights abuses in Mexico. Police officers, at the federal, state and municipal level are frequently involved in abuses that increasingly reproduce the patterns of military abuses.

The incipient attempts of police reform that have taken place in Mexico have been focused primarily on the federal level, leaving the state and municipal forces almost untouched in spite of the fact that they are the ones directly in contact with the majority of the population. While the focus is placed on institutional strengthening and equipment purchase at the federal level, internal and external controls are not in place to enable accountability.

The Federal Police, which is presented here in the US as an already reformed national force, maintains these failures as we have experienced recently in Guerrero. In December 2012 in Chilpancingo, Guerrero, Federal Police officers as well as state police officers opened fire against a student protest causing a violent riot that ended up with the killing of three individuals, two of which were young students murdered by police. 168 officers were involved, of which more than 90 had assault weapons while non of the students carried firearms After the event, known as the Ayotzinapa case because of the students’ school’s name, the Federal Police deliberately gave out information that later was proven to be false. What is even worse: it didn’t cooperate with the investigation conducted by the National Human Rights Commission. So far, no member of the Federal Police has been charged in the criminal justice system. As I will refer later, Guerrero’s Investigative Police was involved in these human rights violations and was benefited, also, with impunity.

Reports of abuses by the Federal Police are getting more severe, as Ayotzinapa case shows. It is important to emphasize that we are talking about the Police Force presented as the greater achievement of Calderon’s administration; a supposedly newly reconstituted Police that has largely benefited from US aid.

As this case reveals, without enforcing accountability, institutional strengthening and new equipment will not be enough to build strong and democratic police forces. US aid must not forget this when it comes to the Federal Police or state level forces. This is particularly the case regarding the police forces in charge of criminal investigation, called judicial or ministerial police, as they continue to operate with a modus operandi of committing human rights violations against the population. This is our third concern.

2.3 Justice reform and the role of the investigative police

Let me talk about justice reform from the point of view of the work we do monitoring police abuses. The results of that work contradict the assumptions of Calderon's security policy⁶. For instance, in our region the municipal police is the force that is closer to the population, even though they are often not paid their low salary, which is less than 300 dollars a month. Although they do not have the most basic equipment, a fact we've documented receiving police officers complaints in an innovative way, municipal police officers are mostly indigenous people from la Montaña rooted on the communities in a way that won't be fulfilled by a national police designed without considering specific local needs and cultures.

Regarding justice reform, we've documented that the force with the worst human rights and corruption record is the police in charge of criminal investigation. We've registered almost 200 cases involving abuses of that force in the last 4 years, which is more than 40% of the police abuses we've documented in the whole Montaña region, even though the Investigative Police is small in number compared with the Preventive Police forces: 30 officers of the first one, more than 500 of the other. That is, 30 public servants commit almost 50% of the abuses. As this reveals, human rights violations are the systematic modus operandi of the Investigative Police at the state level.

In states like Guerrero, the investigative police is not only responsible for human rights violations, like the systematic use of torture, but it is also deeply infiltrated by the drug cartels.

Again, the Ayotzinapa case is emblematic in this sense. After the violent assault against the students, 24 individuals were detained and conducted to the building of the State Prosecutor Office. There, Investigative Police Officers tried to cover what had happen involving the students in crimes they didn't commit. One of the students, 20 year old Gerardo Torres Pérez was severely tortured and driven out the building were the Investigative Police Officers make him fire an arm to incriminate him, telling him that if he refused they will kill him. The young student recovered his liberty with Tlachinollan's legal advice, but no one has been charged for the torture. Moreover, denouncing what happened became enormously dangerous for Gerardo and Tlachinollan because it is publicly known that some of the public servants related with the torture of the student work with organized crime.

⁶ In recognition of numerous complaints of human rights violations committed by security forces in the state of Guerrero, and the victims' lack of access to justice, Tlachinollan with the Institute for Security and Democracy (Instituto para la Seguridad y la Democracia, Insyde) and Fundar, Center for Analysis and Research (Fundar, Centro de Análisis e Investigación) created in 2007 the Civilian Monitor of Security Forces in the Mountain of Guerrero (Monitor Civil de las Fuerzas de Seguridad en La Montaña de Guerrero, Mocipol). In December 2011, Mocipol published *From the Citizens' Point of View: Report of the Civilian Monitor of Police and Security Forces of La Montaña, Guerrero (Desde la Mirada Ciudadana: Informe del Monitor Civil de la Policía y de las Fuerzas de Seguridad de La Montaña de Guerrero)*, which analyzes the patterns and roots of police abuse and offers concrete recommendations for democratic police reform.

As this case shows, in Guerrero and other states the failures of investigative police threaten to undermine the success of the judicial reform in Mexico. Justice reform is crucial to punish those who have committed crimes and to fight organized crime. But this reform will fail if the investigative police is not purged and reformed to eliminate the structural factors that incentivize torture, poor investigations, and impunity, particularly at the state level. Unfortunately, this is an underestimated issue. Therefore, it is not surprising that in states like Chihuahua, where the new adversarial justice system is already technically operating, authorities at every stage of the criminal justice process still commit gross human rights violations.

The reform of investigative police within the federal and state Attorney General's Offices must be a priority if the judicial reform is successfully going to be implemented.

2.4 Human rights defenders and security

Finally, I will say a few words on our final concern: victims' and human rights defenders' protection.

Civil society is key to overcoming the Mexican violence crisis, yet its active participation is limited because of the risks that victims and human rights defenders face and the attacks against them. This is even more serious in states like Guerrero where it is increasingly dangerous to denounce corruption and abuses of the dominant presence of the drug cartels. For instance, Valentina Rosendo Cantú, whose case went to the Inter-American Court in 2010 as I mentioned earlier, had to move several times after repeated threats in the last years, including a kidnapping attempt against her daughter. Today she lives in hiding. This is not unordinary: currently many victims have to hide to avoid the risks that arise from their search for justice.

For human rights defenders things are not very different: I must say that I am lucky to be here while many of my colleagues in northern and southern Mexico face the worst conditions, considering that only this year, according to Mexico City Human Rights Commission, 62 defenders have been attacked and 5 have been killed⁷. My own Director, Abel Barrera, lives with security measures due to the numerous threats he has received in the last years and my fellow lawyer Vidulfo Rosales Sierra received last week a written anonymous threat saying "We know what you do and were you are. We will kill you. We will kill you".

For victims and human rights defenders, risks are worst in cases of forced disappearances because these cases are accompanied by the bad faith actions of government officials who systematically accuse the victims of having been targeted because they were part of organized crime. Despite the rise of an increasingly strong movement of victims' relatives and activists that demand justice and truth for the disappeared, the Mexican government has yet to respond with any concrete actions, like an effective database for these cases.

Ending the uninterrupted cycle of impunity for human rights violations is crucial to guaranteeing justice for victims. But it is also the best way to build strong institutions and enforce the rule of law. The so-called war on drugs will fail if the authorities continue to cover up human rights violations and see civil society as if we were part of the problem. This has happened throughout the war on drugs in this administration: for instance, the former Secretary of the Interior said that human rights defenders were "useful idiots" of the drug cartels⁸.

⁷ This was a statement of former *Secretario de Gobernación*, Fernando Gómez Mont, made in June 26 2010. See: <http://www.jornada.unam.mx/2010/06/26/politica/005n1pol>

⁸ See: <http://www.cdhd.org.mx/index.php/boletines/2280-boletin-1472012>

It is fundamental that US continue to recognize the relevance of independent human rights work in Mexico. In this sense, hearings like this one and concrete actions to protect victims and human right defenders are extremely important.

Conclusion

As Calderon's administration comes to its end, it is important to remember the importance of basic actions like drug demand reduction in the US as well as effective measures against high-powered weapons traffic into Mexico. A social approach is also important, considering that in regions like the mountains of Guerrero some of the poorest communities in Mexico grow poppy or marijuana as a way to survive hunger and deprivation.

Regarding any future US assistance to the Mexican government, it is extremely important to push for long-term actions to strengthen Mexico's civilian institutions and to enforce accountability at all levels, considering the diversity of the country and the important role of civil society. If not, US funds will be going to non-transparent authorities who routinely violate human rights.

Thank you.