



## **Mexico: joint briefing note on the situation of human rights defenders in view of EU-Mexico Human Rights Dialogue, Brussels, 18<sup>th</sup> March 2014**

### **1. New figures and facts on Human Rights Defenders (HRDs) in Mexico**

In July 2013, the Office of the UN High Commissioner for Human Rights in Mexico (OHCHR-Mex) launched its third thematic report (Report on the situation of human rights defenders in Mexico: update 2012 and balance 2013) which denounces some of the human rights violations that Mexican organizations have been documenting in recent years: **HRD in Mexico continue to suffer attacks, threats, harassment and murders**<sup>1</sup>. The reports' main findings can be summarized as follows:

- **Violence against HRD continues escalating.** The OHCHR-Mex registered 89 aggressions against HRD between November 2010 and December 2012. However it points out that the numbers might be higher due to data sub register. Indeed, the Cerezo Committee and ACUDDEH have registered 153 cases of aggressions against HRD between May 2012 and May 2013 (53 more than between 2011 and 2012). Moreover, the Mesoamerican Women HRDs Initiative has documented 118 attacks against Mexican WHRDs in 2012.
- **New trends in aggressions mean more risks.** According to the OHCHR-Mex, the most common risks for HRD are threats, surveillance and illegal office raids, harassment, arbitrary and illegal detentions, physical attacks and forced disappearances. The Cerezo Committee and ACUDDEH, reported that harassment (in 62% of the cases documented) is

<sup>1</sup> For more information see: Cerezo Committee and Urgent Action for Human Rights Defenders (ACUDDEH) "Defend human rights in Mexico: the price of dignity" available at <http://acuddeh.org/spip.php?article3611> and the Mesoamerican Women HRDs Initiative report "Paving the Road for Freedom and Equality" available at <http://protectionline.org/files/2014/02/WHRD-Paving-the-Road-for-Freedom-Equality.pdf>

the type of aggression most common between 2011 and 2012, threats are the second one (47% of the cases documented). This new trend clearly represents an increase of level of risk for HRDs in Mexico because perpetrators go beyond of threats and carry out direct attacks.

- **Impunity remains extremely high.** Accordingly to OHCHR-Mex, suspected offenders were identified by the Justice System in only 5 cases out of 89 recorded. Of these 5, in only 3 cases aggressors were arrested. None of them has been sentenced.
- **Attacks by State actors continue to be carried out.** According to the OHCHR-Mex, 23% of the attacks were carried out by state officials and 38% by non-state actors (who can either be local personalities who have an undue influence/power over politics, economics or administrative issues – caciques – , privates security forces or drug trafficking networks). In 39% of the cases the perpetrators were not identified.
- **Defenders most suffering attacks are journalists, migrants' rights defenders, land rights defenders, environmental defenders and those fighting against impunity or denouncing drug trafficking. Women HRD are also especially at risk.** Working on women's rights means challenging the discrimination and social exclusion that women experience because of their gender. While many fight against a wide range of human rights violations, they defend human rights also because they themselves have experienced gender-specific violence and discrimination in their lives and demand that their rights and freedoms be respected.
- According to the OHCHR-Mex, **Oaxaca, Guerrero, Chihuahua and Coahuila are identified as the most unsafe for HRD. Chiapas and Mexico City are also among the states where the majority of attacks are reported.** According to the Mesoamerican Women HRDs Initiative, Guerrero and Oaxaca are the states with the highest rate of attacks against WHRDs.

## **2. The National Protection Mechanism for Human Rights Defenders and Journalists**

In light of this situation, the National Protection Mechanism for Human Rights Defenders and Journalists (enacted in 2012) generated high expectations about the willingness of the Mexican Government to properly fulfil its responsibility in protecting HRDs and journalists at risk.

The conjunction of several components created the first opportunity to ensure proper protection for HRD and journalists at risk:

- the extensive consultations carried out during the institutional design process,
- the wide participation of civil society organizations (CSO) in drafting the law and the secondary legislation,
- the key role of the representatives of national CSO in the decision-making body,
- the close follow up and monitoring by the international community (the EU Delegation included)
- the advice of the OHCHR-Mex and experts in the field of security to prepare the protocols and risk analysis methodology,
- the high level of authorities programmed to participate in the Governing Board,
- the Cooperation Agreement signed with several local States, and
- the specific budget allocated to the NPM, among others.

**FLD, PBI, PI and CIFCA recognise that important efforts have been made along 2013 by the national authorities to put in place the NPM:**

- The Technical Committee for the Trust Fund for protective measures (fideicomiso) has been created and the rules to use it have been published. In parallel, there has been efforts to fulfil the vacancies and post necessary for the Mechanism to operate.
- In October the Ministry of the Interior met the representatives of civil society (Consultative Committee) and discussed their concerns regarding the lack of implementation of effective security measures. The Minister committed to ensure his political support and draw the attention of other relevant governmental entities.

**However, given the deficiencies early detected in 2013 regarding to the effective implementation of security measures, CSOs alerted to the authorities and requested several changes.** To date, **several challenges remain** in the operation of the NPM to fully become an effective institutional answer to the risk faced by HRD and journalists in Mexico<sup>2</sup>. In addition, several deficiencies have not yet been addressed and should be improved for the Mechanism to be properly implemented:

1. **Significant backlog of cases.** To date the NPM has received approximately 130 requests of protection, but only 37 cases had been reviewed by the Governing Board. The speed with which cases are evaluated is not in line with growing demand. Additionally, risk assessments that should be elaborated in 10 days take up to six months to be delivered. The solution could not be to modify the law requirements in order to make the time-lines of the procedure more flexible, but to ensure that enough and qualified personal is hired immediately
2. Despite the creation of a Technical Committee of the Trust Fund, **accessing the budget allocated since 2013 had not been possible** for bureaucratic reasons and the 170 million Mexican pesos budget of the Trust Fund haven't been implemented. Moreover, there is no clarity about the amount that will be approved in 2014.
3. The **Unit of Prevention, Analysis and Monitoring** charged with monitoring the trends and patterns of the attacks perpetrated in order to promote structural preventive measures and evaluate the implementation of the security plans **has not been yet set up**. The main role of this Unit is basically control the quality of the decisions taken by the other units, as well as to propose measures that contribute to prevent future attacks.
4. **Risk Analysis are weak and protection measures are mainly focused on a police-oriented approach.** In some of the cases, the measures given do not correspond to the level and nature of risk of the HRD. Moreover, gender and socio-economic background of defenders is usually not properly considered leading into weak measures. Arbitrariness had been usually detected, putting aside the risk analysis protocol formally approved by the Governing Board.
5. Fight against impunity should be at the core of the implementation of the mechanism. **The NPM is still far from becoming a tool to combat impunity.** Despite the role of the Federal Prosecutor in the NPM, this has not had a significant impact to identify and prosecute the perpetrators.
6. **Alarming lack of understanding regarding the protection for HRD and journalists**

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<sup>2</sup> Some cases of failure of the Mechanism have been made public. See for example the case of Vicente Moreno Domínguez from the *Centro de Derechos Humanos Zeferino Ladrillero* (Estado de México) who was beaten and seriously injured by persons linked to a Municipal authority, despite the protection measures ordered by the NPM. See Amnesty International "Human Rights Stabbed in Mexico". UA: 252/13 Index: AMR 41/061/2013, 16 September 2013, available in: <http://www.amnesty.org/en/library/asset/AMR41/061/2013/en/35f803f8-289f-43e9-842e-bab8b1dcc193/amr410612013en.html>

**among the staff of the NPM.** Resources should be devoted to training and informing officials in the Ministry of Interior, Ministry of Public Security, National Attorney General's Office, the Ministry of Foreign Affairs and the National Human Rights Commission, about the implementation of the law and to provide a comprehensive understanding of security for HRD and journalists.

7. Despite the voluntary cooperation agreements signed between the federal state and most of the State governors, **coordination among the different levels of governments still faces challenges**, including key states like Mexico City where most of the journalists at risk are looking for shelter due the violence in their own State.

In conclusion, the current situation may be coming to critical stage before the NPM loses CSO support. Despite the ongoing external technical support from Freedom House, there is no plan at the NPM for institutional building, nor a binding agreement to make the adjustments needed stemming from such a technical support for long standing results.

### **3. Cases raised by Front Line Defenders and Peace Brigades International in 2013-2014**

#### **3.1 Human Rights Defenders from the Tehuantepec Isthmus, Oaxaca**

The region of the Tehuantepec Isthmus in Oaxaca is one of Mexico's windiest regions, which makes it a suitable place to build wind farms. Indeed, a Federal State Plan along with the private sector looks to exploit the aeolian energy of the region. 14 farms have already been installed and four more are under construction, the majority of them in the lands of the ikjoots and binni'zaa indigenous communities. It is alleged that the territory is being stripped in order to install windmills for the production of so-called clean, cheap energy. The development of these wind farms has characterised by violations of international legal standards such as right to free, prior and informed consent regarding land used by indigenous peoples. It has also deeply divided the local population provoking tensions and conflict, often leading to violent clashes between developers and those in favour of the wind farms, and those who oppose them. Throughout 2013, we have observed with great concern, a significant increase in human rights violations including threats, intimidation, surveillance, acts of aggression, and killings against those involved in the defence of communities and peoples who oppose such development. Local human rights defenders have organized themselves in popular assemblies such as: the *Asamblea Popular del Pueblo de Juchitán* (Popular Assembly of Juchitán, APPJ) formed in February 2013 to struggle against the imposition of the wind-farm *Bí Híoxo*, which is managed by the Spanish venture capital firm *Gas Natural Fenosa* (GNF) and the *Asamblea de Pueblos Indígenas del Istmo de Tehuantepec en Defensa de la Tierra y el Territorio* (APIITDTT) which gathers since 2007 several communities, including [San Dionisio del Mar](#) where the company *Mareña Renovables* has been trying to build a wind farm. The APPJ and the APIITDTT have repeatedly denounced aggressions against those who work to defend their land and territory, in particular:

- On the 2<sup>nd</sup> of April 2013, Mariano López Gómez from the APIITDTT was arrested by State Police and accused of extortion. He was later acquitted because evidences were lacking.
- On the 17<sup>th</sup> of July: Members of the APPJ suffered acts of intimidation and harassment after a protest against the Sub-Attorney of Juchitán.
- On the 21<sup>st</sup> of July, Hector Regalado Jiménez, member of the APPJ, was shot dead and two other members injured in a shooting incident, some days after the organization had participated in a protest against wind farms in Juchitan.
- On the 25<sup>th</sup> of August, members of the APPJ were threatened at gunpoint in the heights of

the area known as Chigueeze, inside the industrial estate of Bií Hioxo. Sara Lopez the APPJ suffered an assault with a cold weapon.

- On the 28<sup>th</sup> of January 2014, the protest camp of the APPJ located in communal territories of Juchitán de Zaragoza on the Tehuantepec Isthmus, Oaxaca, was razed to the ground for a second time by unknown persons. The incident follows a previous razing of the protest camp that occurred on 15 October 2013.

The APPJ and the APIITDTT have been reporting these incidents to Oaxaca authorities without any action or results being observed to date.

### **3.2 Threats against Ms [Alba Cruz](#) – Committee for the Defence of Human Rights Gobixha – Código-DH**

On the 30<sup>th</sup> of April 2013, human rights defender Ms Alba Cruz, who works as a human rights lawyer with the human rights organisation *Comité de Defensa de Derechos Humanos Gobixha AC* –Código-DH (Committee for the Defence of Human Rights Gobixha) in Oaxaca, Mexico, received a threatening message to her mobile phone. The tone of the message was similar to threats she had received before, in which she was told there was still unfinished business which needed to be acted on. Another human rights defender, who works in the department of communication of Código-DH, Ms Susana Ramírez, was detained for 34 hours for covering a protest in the city of Oaxaca. She was held incommunicado for 14 of those hours.

Código-DH is an organisation which works to provide legal, medical and psychological assistance to survivors of human rights violations in the Oaxaca region of Mexico. Código-DH has been the victim of intimidation and harassment due to the nature of its work in the defence of human rights.

On the 3<sup>rd</sup> of April 2013, the Código-DH offices were broken into and some confidential documents were reviewed. Documents directly related to Ms Cruz's work in the Isthmus de Tehuantepec were stolen. One of the computers in the legal department had been switched on and some confidential documents in the vicinity were in disarray. Código-DH reported the break-in to the Federal Police, the Ministry of the Interior, and the Public Prosecutor.

### **3.3. Break-in at the offices of [Centro de Derechos Humanos Juan Gerardi](#) (Juan Gerardi Human Rights Centre)**

On the 8<sup>th</sup> of September 2013, staff of the human rights organisation *Centro de Derechos Humanos Juan Gerardi* (Juan Gerardi Human Rights Centre) arrived at their offices in Torreón, Coahuila State, to discover that a break-in had taken place during the night. Sensitive information and computer equipment were taken from the premises. The *Centro de Derechos Humanos Juan Gerardi* is a regional Christian human rights organisation that works to promote peace and build a culture of respect for human rights.

Staff members first noticed that the office's air conditioning unit had been removed, leaving an opening in the wall. Upon entering, they found the office in complete disarray; confidential papers containing sensitive information regarding cases of human rights violations had clearly been read by the intruders and had been strewn about the office. Two computers, also containing sensitive and confidential information, were missing.

A complaint was filed with the Prosecution Office of Coahuila State, who made a preliminary assessment before the investigation had concluded. They have announced that in their view the

incident was a common robbery, a conclusion that appears highly unlikely given that the intruders left several items behind that were of greater material value than the computers. Signs indicate that the perpetrators were only concerned with targeting archives and equipment related to the organisation's human rights work. Also, it is worth mentioning that, in February 2012, members of the federal police and the army entered their offices without a warrant, claiming that they were looking for drugs after an anonymous call – people working at the Centre were interrogated about their work. The case was filed without any conclusion against the police officers.

### 3.4 Aggressions against migrants' defenders

- **Threats against Father Tomás González, director of El Refugio para Personas Migrantes “La 72” (The “72” Refuge for Migrant Persons) and Mr Rubén Figueroa, staff member of la 72 and member of Movimiento Migrante Mesoamericano (Meso-american Migrant Movement).**

On the 17<sup>th</sup> of March 2013, Father Tomás González and Rubén Figueroa were informed by a migrant at *La 72 shelter* that members of a criminal gang had told him they were going to attack the shelter to find all the workers and migrants who had filed criminal complaints against them, and that they knew how to get access into the shelter.

The complaints mainly refer to information submitted by *La 72* to local authorities and senators regarding the activities of an organised criminal gang, which controls the flow of migration from Tenosique to Coatzacoalcos, a major port city in the state of Veracruz, following testimony received by the shelter from hundreds of migrants.

The threats were reported to the Federal Judicial Police (PGJ), Federal Police (PGR) and the army, while a police patrol has been posted outside the shelter. The authorities have made three arrests in relation to the threats, but have not reportedly detained the leaders of the criminal gang in question. Since the relocation of the shelter's headquarters close to the train tracks in Tenosique, staff have been reportedly subjected to a series of threats and acts of harassment, while in early March 2013, Rubén Figueroa reportedly received threats from persons identified as members of the aforementioned criminal gang. Although the *Comisión Nacional de los Derechos Humanos* – CNDH (National Commission of Human Rights) awarded protective measures to *La 72* in July 2011, the measures were not implemented and the case was subsequently reportedly closed by the CNDH.

On the 19<sup>th</sup> of April 2013, the IACHR granted precautionary security measures to *La 72* as a result of death threats received by Rubén Figueroa and Fr. Tomás González from members of a criminal gang. The Mexican state was given 15 days to comply with the measures, during which time the authorities did not even contact the shelter, forcing Fr Tomás González to write to the Ministry of the Interior.

In a meeting between the authorities and *La 72* on the 17<sup>th</sup> of May 2013, the Federal Police agreed to implement various forms of protection. However, that same week, the Federal Police withdrew its travel accompaniment without explanation. On the 11<sup>th</sup> of June 2013, it was arranged that these patrols be put back in place, but to date this has remained unchanged. Other forms of protection that were agreed upon but which have not been provided include a panic button, lights, an alarm, a CCTV room and new locks.

On the 8<sup>th</sup> of June 2013, Rubén Figueroa was threatened that he would be found embalmed if he did not stop obstructing organised crime. Although the person who made the threats, along with three others implicated in the kidnappings of migrants, was arrested because of them, all four were released on the 10<sup>th</sup> of June 2013. Since then, the human rights defender, along with others, has

felt forced to cease his activities with the centre due to fears for his physical and psychological integrity.

- **Harassment and threats against the staff of the [Casa del Migrante Saltillo](#) (Saltillo Migrant Shelter).**

The *Casa del Migrante Saltillo* provides humanitarian assistance, psychological support and free legal aid to migrants on route to the USA. The shelter has become a leading voice in documenting kidnappings, disappearances, extortion, and abuse, perpetrated against migrants, exposing the impunity associated with such crimes, and the failure of the State to respond. They are currently taking legal proceedings against the Saltillo Municipal Police for torturing 26 migrants, as well as a case against the National Migration Institute and the Institute for Child and Family Protection for their failure to protect migrants' rights.

There is a clear pattern of incidents aimed at obstructing the work of the shelter, which has become increasingly worse during 2013.

- The Shelter was the subject of a defamation campaign by local radio stations, questioning the legitimacy of its work and criticizing their documentation and accompaniment of victims and accusing the director, Alberto Xicotencatl of inventing the violations denounced by the shelter. The Municipal President, the Director of the municipal police, and the State Attorney General, all made public defamatory statements about the shelter during 2013.
- In October 2013, the husband of staff members who has precautionary measures was held at gunpoint by the municipal police shortly after leaving the shelter, arbitrarily detained and tortured before being released without charge.

Throughout 2013, and in previous years, the following incidents have occurred:

- On countless occasions phone calls were made to the Shelter, usually late at night, threatening staff to discontinue their work or they would be killed, sometimes a sound similar to a heartbeat was heard on the line. Messages were issued threatening to burn down the church, linked to the Shelter if it was not shut down.
- Numerous sightings were reported of suspicious vehicles circulating in the area surrounding the Shelter. Heavily armed men would disembark and hold staff members or migrants up at gunpoint and issue death threats to cease their work or attempting to kidnap them. (Last incident of this type reported to authorities occurred on the 27th of January 2014).
- HRDs have also been targeted in other locations in Saltillo, sometimes at gunpoint and forced to hand over their phones. Their homes have also been surveilled and on numerous occasions unknown individuals have forcefully attempted to gain access to the Shelter.
- The Shelter was broken in to and two computers were stolen but no valuables were taken.
- Security incidents increase when the HRDs denounce abuses with local authorities. Although the police are informed of the aforementioned incidents, they either fail to react, or make intimidating visits to the shelter. The shelter staff has precautionary measures from the IACHR since 2010 which have not been properly implemented.

### **3.5. Arrest and detention of Mr Nataniel Hernández Núñez – director Centro de Derechos Humanos Digna Ochoa (Digna Ochoa Human Rights Centre)**

On the 7<sup>th</sup> of February 2013, at approximately 1pm, Nataniel Hernández Núñez was attending a meeting in the offices of the Under-Secretary of the Government of the State of Istmo-Costa with representatives of the Secretary of Health, the Government of Istmo-Costa and the Regional Autonomous Council of the Coastal Zone of Chiapas. The dialogue was held in order to discuss

the National Civil Network Against High Prices of Electricity, a national campaign protesting against rising energy costs, which was being marked that day by a series of public mobilisations across Mexico. The meeting was interrupted by members of the state, ministerial and municipal police, who proceeded to arrest Nataniel Hernández Núñez and take him from the offices.

During his 7-hour detention, Nataniel Hernández Núñez's whereabouts were unknown to his family and colleagues. His detention was reportedly the result of an arrest warrant issued by the Third District Court of Tapachula, accusing the human rights defender of obstructing the public rights of way.

Since 2010, Nataniel Hernández Núñez has been subjected to a continued and systematic campaign of judicial harassment, of which the recent arrest is the latest act. Furthermore, in April 2012, he received threatening and intimidating text messages, reportedly from civil servants of the Chiapas State Government.