



Mr. Eduardo Murueta Urrutia
State Attorney General of the State of Guerrero
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Washington, D.C., February 25th, 2009.

Dear Mr. Murueta Urrutia,

We are writing to express our profound concern regarding the deaths of Raúl Lucas Lucía and Manuel Ponce Rosas, president and secretary of the Organization for the Future of the Mixteco People, which defends indigenous rights in the state of Guerrero. The international organizations signing this letter respectfully urge you to conduct a thorough, prompt, and independent investigation which is capable of leading to the identification and punishment of those responsible for these killings. This is all the more urgent given the credible allegation that state agents may have been involved and their accountability for the deaths must be determined.

We have received credible reports that Mr. Lucas Lucía and Mr. Ponce Rosas were allegedly kidnapped by members of the ministerial police on February 13, 2009, while they were participating in a public act in a high school located in Plan de Ayutla, near Ayutla de los Libres, Guerrero. According to the families' lawyer, several witnesses saw a group of non-uniformed men who arrived shouting "Stop! Police!" and drove the two indigenous rights defenders away in a car without license plates.

The whereabouts of the two men remained unknown until February 22, 2009, when their widows identified two bodies that had been found two days earlier. The bodies were discovered by the police in Las Cazuelas, around 30 minutes from Ayutla, and were taken to the local forensic department for examination. According to a witness and various press accounts, the two bodies displayed visible signs of torture. Mr. Lucas Lucía was found with a bullet in his head, with his hands tied in front and with severe bruises and blows to his nose, cheeks and mouth. Severe burns present on Mr. Lucas Lucía's neck and chest areas also suggest that he may have been subject to electric shocks. Similarly, Mr. Ponce Rosas had several bruises in his face and head, his teeth shattered and his hands tied in front. Both bodies were discovered buried in plastic bags.

You will be aware of the special obligation which is placed on states to protect human rights defenders against risks that they may face as a direct result of their work. According to the Inter-American Commission on Human Rights (IACHR), "the work of human rights promotion and protection carried out by persons under [states'] jurisdiction at their own initiative is a legitimate

activity that contributes to the fulfillment of an essential obligation of the states, and, therefore, gives rise to special obligations of the states to ensure the protection of those who are engaged in the promotion and protection of such rights. In a democratic society human rights activities should not only be protected, but encouraged.”¹

Mexico is party to several international human rights treaties that impose an obligation, *inter alia*, to deter and prevent violations of the rights contained therein, and to investigate, prosecute, and remedy violations.² The Inter-American Court of Human Rights, for example, has held that “the State has the obligation to use all the legal means at its disposal to combat [impunity], since impunity fosters chronic recidivism of human rights violations and total defenselessness of victims and their relatives.”³

The duty to investigate and punish also derives from the right to a legal remedy that these treaties extend to victims of human rights violations. Under international law, governments have an obligation to provide victims of human rights abuses with an effective remedy—including justice, truth, and adequate reparations—after they suffer a violation. According to the International Covenant on Civil and Political Rights (ICCPR), governments have an obligation “to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.”⁴ The ICCPR imposes on states the duty “[t]o ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy.”⁵

At the regional level, the American Convention on Human Rights (ACHR) states that every individual has “the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.”⁶

¹ Inter-American Commission on Human Rights (IACHR), “Report on the Situation of Human Rights Defenders in the Americas,” OEA/Ser.L/V/II.124, March 7, 2006, <http://www.cidh.oas.org/countryrep/Defenders/defenderstoc.htm> (accessed February 24, 2009), para. 30.

² International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, acceded to by Mexico on March 23, 1981. American Convention on Human Rights (ACHR) (“Pact of San Jose, Costa Rica”), adopted November 22, 1969, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123, entered into force July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992), acceded to by Mexico on March 2, 1981. Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (Convention Against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, ratified by Mexico on January 23, 1986, arts. 2(1), 11, 16. Inter-American Convention to Prevent and Punish Torture, O.A.S. Treaty Series No. 67, entered into force February 28, 1987, ratified by Mexico on February 11, 1987, arts. 1, 6.

³ Inter-American Court of Human Rights, Paniagua Morales et al., Judgment of March 8, 1998, Inter-Am.Ct.H.R., (Ser. C) No. 37 (1998), para. 173.

⁴ ICCPR, art. 2(3)(a).

⁵ ICCPR, art. 2 (3)(b). Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of international Human Rights Law and Serious Violations of International Humanitarian Law, March 21, 2006, adopted by the 60th session of the United Nations General Assembly, A/RES/60/147, principle II.3.(d): “The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law, includes, *inter alia*, the duty to: (d) Provide effective remedies to victims, including reparation, as described below.”

⁶ ACHR, art. 25. Similarly, the Inter-American Convention to Prevent and Punish Torture requires states to “take effective measures to prevent and punish torture” and “other cruel, inhuman, or degrading treatment or punishment within their jurisdiction” (Article 6). It also requires states parties to guarantee that “any person making an accusation of having been

The Inter-American Court has held that this right imposes an obligation upon states to provide victims with effective judicial remedies.⁷

Specifically on states' obligations to investigate abuses against human rights defenders, the IACHR has held that "it is essential that the states, pursuant to their obligations to prevent and protect the right to life, offer adequate protection to human rights defenders, bring about the conditions for eradicating violations by state agents or private persons, and investigate and sanction the violations of that right. In that regard, the Commission reiterates that an important aspect of the state's duty to prevent violations of the right to life is investigating immediately, exhaustively, seriously, and impartially where the threats come from, and punishing, as the case may be, those responsible, with the aim of trying to prevent the threats from being carried out."⁸

We understand that your office is currently conducting the investigation TAB/SC/AM/161/2009 into the killings. We hope that in order to fulfill Mexico's obligations under international law, you will ensure that this investigation is carried out in a thorough, prompt, and impartial manner so that the perpetrators can be identified, prosecuted and punished. Given the allegation against ministerial police, ensuring independence of the investigation is paramount. The investigation should be capable of establishing the key issues of responsibility and liability, including the scope of any official state involvement, and should be coupled with the power and resources to secure the evidence which leads to the determination of those issues.

We look forward to hearing of progress with the investigation.

Sincerely,



Eduardo Bertoni
Executive Director
Due Process of Law Foundation



José Miguel Vivanco
Director Ejecutivo – Americas Division
Human Rights Watch

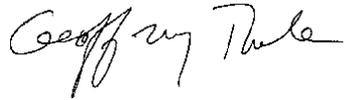
subjected to torture within their jurisdiction shall have the right to an impartial examination of his case," and that "their respective authorities will proceed properly and immediately to conduct an investigation into the case and to initiate, whenever appropriate, the corresponding criminal process" (Article 8).

⁷ Inter-American Court of Human Rights, Velásquez Rodríguez Case, Judgment of July 29, 1988, Inter-Am.Ct.H.R., (Ser. C) No. 4 (1988), paras. 166, 174, 176. Inter-American Court of Human Rights, Loayza Tamayo Case, Judgment of November 27, 1998, Inter-Am.Ct.H.R., (Ser. C) No. 33 (1998), para. 169.

⁸ Inter-American Commission on Human Rights (IACHR), "Report on the Situation of Human Rights Defenders in the Americas," OEA/Ser.L/V/II.124, March 7, 2006, <http://www.cidh.oas.org/countryrep/Defenders/defenderstoc.htm> (accessed February 24, 2009), para. 45.



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