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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD**

**Written statement* submitted by the Miguel Agustín Pro Juárez Human Rights Centre,
a non-governmental organization on the Roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2005]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

THE HUMAN RIGHTS SITUATION IN MEXICO

Despite the foreign policy advances in the area of human rights and the Fox administration's openness to dialogue, four years after Fox assumed power, the main human rights problems in Mexico remain. The Centre Prodh and the Network "All Rights for All" present their main preoccupations in the following text.

The Justice System

1.- The essentially inquisitive system, the lack of trustworthy and scientific techniques, and deficient investigations, together with the excessive power of the ministerial authorities, convey the permanency of arbitrary detentions, torture, lack of adequate defence and violations of due process, which are accepted by the judicial authorities. All of this, together with the corruption and collusion that rule the relationship between the institutions within the system, are the main causes for impunity. In May 2003, the CAT concluded that the use of torture in Mexico is systematic¹. The Mexican government recognised in its report to the CAT that between 1997 and 2003 no one had been sentenced for the crime of torture at the state level.

2.- Impunity is also reflected in cases such as the murders and the enforced disappearances of women in Ciudad Juárez, where the victims' families are still awaiting justice. Also, in the state of Jalisco, the 119 arbitrary detentions and 49 cases of torture carried out after the demonstrations during the European Union-Latin America Summit, in May 2004, are still unpunished.

Enforced disappearance and the Special Prosecutor's Office to investigate crimes of the past (FEMOSPP)

3.- The enforced disappearance continues to be used as an investigation method and to pursue crimes in states like Guerrero, where since 1999 there have been 17 documented cases that remain unpunished. Although Mexico ratified the Inter-American Convention on Forced Disappearances of Persons; this is categorised as crime only in the Federal Penal Code and the local penal codes of the states of Oaxaca, Chiapas and the Federal District.

4.- The clarification of enforced disappearances that occurred in Mexico during the decades from the nineteen sixties to the eighties is still a pending issue for the right to truth and justice of the families of the disappeared and the society in general. The most important achievement of the FEMOSPP, established in 2001, was that the Supreme Court resolved that the calculation for the statute of limitation for the crime of illegal privation of freedom begins when the victim is found. So far, only one person has been imprisoned in relation to the disappearances and death of hundreds of people. Likewise, the FEMOSPP has not received clear support from the federal government, and has received even less cooperation from the Army.

Militarisation

5.- The militarisation of civil spaces continues to be worrying. The legalisation and

¹ CAT/C/75, 25th of May, 2003

institutionalisation of the diverse actions by the army has increased, such as the army's participation in public security tasks and in the *elite* police forces; the investigation of crimes, where even the Federal Attorney General is a member of the army; and recently, in prison security. At the same time, the strong military presence in some communities has resulted in serious human rights violations, including the sexual rape of indigenous women.

6.- The supremacy of military jurisdiction in cases of human rights violations perpetuated by army members continues. The cases reported to the authorities are systematically assumed by the Military Attorney General's Office, or sent by civil authorities to the military authorities, resulting in the lack of investigation into the allegations and the lack of access to justice for the victims. It also guarantees that those responsible for these violations are not punished.

Rights of Indigenous peoples

7.- The recognition of the collective rights of indigenous peoples continues to be on hold. In the meantime, the indigenous people still are victims of militarisation in their territories, and persecution, harassment and imprisonment by federal and state authorities all over the country. The structural reforms in place seek to create an infrastructure to attract investment. This puts at risk their land and use of natural resources, because there is no legal framework to protect their patrimony or to consult them. The governmental programmes "...weaken the indigenous community,and ...result in the eventual loss of ...the land"².

8.- In Chiapas the conflict, the lack of dialogue and the material conditions for a new human rights crisis persist; the Mexican army maintains 91 permanent camps, the paramilitary groups have not been dismantled, arms remain and the impunity of crimes against humanity persists.

ESCR

9.- The current government limited its role to promote economic development and employment, by implementing the governmental program *Oportunidades*, which excludes the poor population in urban areas, in low marginalisation areas, and in areas where it is difficult to access education and health services.

10.- The *seguro popular* was created in order to deal with the deficiencies and shortage of the health services, but in reality it has increased the overload of the existing health institutions, without widening or improving their services. The absence of a policy on the issues of food, the environment, and water availability also stands out.

National Human Rights Programme

11.- As part of the Technical Cooperation Agreement with the UNOHCHR, President Vicente Fox presented the National Human Rights Programme (NHRP) on 10 December 2004. This was done a year from the issuing of the Assessment on the human rights situation in Mexico, by the representative of the UNOHCHR in Mexico, which contains general and specific recommendations that should have been

² E/CN.4/Sub.2/2001/21, June 11, 2001. "Indigenous people and their relationship to the land". Final working paper prepared by the Special Rapporteur Mrs. Erica-Irene A. Daes. Par. 74.

implemented by this programme.

12.- Nevertheless, during the design, elaboration and implementation process of the NHRP, civil society's participation was limited. The result was far from the expectations regarding participation and possibilities to influence the content, which were fulfilled during the elaboration of the Assessment. At the same time, the federal government did not involve the different political forces; therefore the NHRP does not represent a State commitment. Additionally, the proximity of the 2006 electoral process threatens its continuity.

13.- The methodology that was the basis of their work was inadequate for determining the pertinent actions that would allow the government to identify the failures in the fulfilment of the State's obligations. As a result, there are actions included in the NHRP, which reflect the ordinary administrative work of the government but that, in strict sense, do not constitute public policy with a human rights perspective.

14.- In relation to the persistent in Mexico, the NHRP is far from establishing an efficient policy to revert them.

15.- The constitutional reform bill on human rights does not guarantee that a constitutional status will be granted to the international human rights instruments, therefore –in a system with a constitutional tradition such as the Mexican- the effective application of these commitments will be postponed.

16.- In relation to the constitutional and legal reform on justice, it can be said that although the bill presented by the Executive, and reproduced in the NHRP, does contain some important advances, it also widens the systems of exceptions for respecting human rights with the argument of combating organised crime.

17.- On labour issues there is no certainty that there will be the needed changes to guarantee the right to join or form trade unions. At the same time the proposal made by the Ministry of Labour promotes a reform that will clearly be regressive on labour rights issues.

18.- On the indigenous issue, despite the recommendation by the Special Rapporteur, Dr. Stavenhagen³, and of the recommendation of the Assessment, the NHRP leaves out the revision of the 2001 Constitutional reform on indigenous peoples' issues. In addition, under the environment and sustainable development sections, there are proposed actions that may be even more regressive for the indigenous people, such as establishing natural reserves without their consent as a way of dispossess them of their land and to take advantage of the natural resources.

19.- Another grave absence in the NHRP is the issue of militarisation.

Conclusions

20.- The main human rights advances of Fox's administration have been at the foreign policy level and its openness on the issue. Nevertheless, at the internal level, Fox's most important initiative on human rights, the NHRP, does not respond to the most important recommendations issued by the UN human rights mechanisms, nor those included in the UNOHCHR Assessment.

³ E/CN.4/2004/80/Add.2. Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people.

21. In light of this, the commitment of the government to expand the UNOHCHR's mandate in Mexico in order to monitor and provide follow-up to said recommendations, particularly the Instrumental Recommendation of the Assessment⁴, which would strengthen the NHRP, will be necessary.

⁴ Consisting of the elaboration of an annual independent report on the state of the nation. The report should include an evaluation of the situation of the issues included in this Assessment.