



# STIFLING HUMAN RIGHTS ADVOCACY IN MEXICO

The Censure of  
Brigadier General  
José Francisco Gallardo Rodríguez

May 1994

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## INTRODUCTION

The Mexican government's treatment of a prominent general who spoke out against military human rights abuses highlights the risks faced by those who publicly denounce human rights abuses in Mexico. Brigadier General José Francisco Gallardo Rodríguez has been highly decorated for his military service as well as his academic accomplishments and athletic talents, including competing for the Mexican Olympic team in Seoul, Korea. Gallardo has completed 30 years of service in the Mexican military, and five as the youngest ever Brigadier General.<sup>1</sup> Yet, since November 1993 Gallardo has been detained in military prison for advocating a process to prevent and prosecute human rights abuses by the military.

At the inauguration of the National Human Rights Commission in 1990, President Carlos Salinas de Gortari assured the public that, "We will confront new threats to human rights regardless of where they come from. . . . Let there be no doubt, the government will defend human rights and punish anyone who violates them."<sup>2</sup> The Salinas government's treatment of Brigadier General Gallardo reveals the ironic twisting of this aspiration: confronting human rights advocates rather than human rights violators. The Ministry of Defense lambasted Gallardo's discussions of human rights violations as the "spreading of completely negative ideas about the Mexican Military, with the object of dishonoring, offending and discrediting the military in the eyes of the public."<sup>3</sup> Brigadier General Gallardo's efforts to expose human rights violations resulted in public censure and criminal charges while military human rights violators, particularly in the state of Chiapas, are being treated with impunity.

## OVERVIEW OF BRIGADIER GENERAL GALLARDO'S CASE

Brigadier General José Francisco Gallardo Rodríguez has been held in military prison in Mexico City since November 1993, shortly after the publication of an article in which he called for the creation of a military human rights ombudsman. While initially held on an unrelated charge (that had previously been dismissed), the Mexican military authorities later charged Gallardo with defamation and crimes against military honor for stating that human rights violations exist within the Mexican military and should be investigated by an independent authority.

During his detention Gallardo has faced increasing isolation, such that he is only permitted visits from immediate family members and his lawyer. Gallardo's meetings with his lawyer have been monitored by prison personnel and his family and lawyer have received threats. Prisoners supportive of Brigadier General Gallardo have been improperly transferred to other prisons and others have been warned to avoid communicating with him.

Despite these difficulties, Brigadier General Gallardo was recently granted relief under the

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<sup>1</sup> *Proceso*, Dec. 13, 1993, and Resume of Brigadier General José Francisco Gallardo Rodríguez.

<sup>2</sup> President Carlos Salinas de Gortari, speech given on June 14, 1990, at the inauguration of the National Human Rights Commission.

<sup>3</sup> Communique issued on December 17, 1993 by the Ministry of Defense with orders that all personnel "without exception" review the information. *Proceso*, Dec. 27, 1993, 9-11.

Mexican constitutional writ of "amparo" for one defamation charge, and for elements of the second. However, Gallardo still faces the charge for crimes against military honor based on the publication of his article calling for a military human rights ombudsman. The third charge against Gallardo for embezzlement is presently being reviewed by a higher court.

Brigadier General Gallardo continues to insist on his innocence in the face of all charges, despite a great deal of pressure on him to change his mind and "stop defending my rights and saying what I think." He openly called the Ministry of National Defense's assertion that the military had no responsibility for human rights abuses in Chiapas "ridiculous" and urged that an independent authority must be responsible for investigating military human rights violations.<sup>4</sup>

### **“THE NEED FOR A MILITARY OMBUDSMAN IN MEXICO”**

Brigadier General Gallardo has explained that he wrote his master's thesis inspired by his knowledge of military human rights abuses, the cases of injustice and torture faced by his military colleagues and the injustices committed against him.<sup>5</sup> A copy of the thesis was received by the editors of *Forum* magazine who excerpted several pages and published them as "The Need for a Military Ombudsman in Mexico" in the October issue of their monthly magazine.<sup>6</sup>

The *Forum* article openly discussed human rights violations committed by the Mexican military against both military personnel and civilians. Brigadier General Gallardo specifically mentioned recent human rights violations committed by the military against civilian populations in Tlaxiaco, Veracruz, in Baborigame and Mesa de la Guitarra, Chihuahua and in Chiapas.<sup>7</sup> Noting his own responsibility to speak out against human rights violations, Brigadier General Gallardo proposed the creation of a military ombudsman.

Gallardo recommended that the military ombudsman would safeguard the rights of soldiers and civilians by responding to complaints about military treatment, inspecting military units for abuses of authority, and guarding against corruption in defense spending and military administration.<sup>8</sup> Working on the premise that the military "ought to be respected, not feared," Gallardo proposed that military discipline should conform to rules that protect the rights and dignity of individuals.<sup>9</sup> Gallardo asserted

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<sup>4</sup> *Proceso*, March 14, 1994, at 44.

<sup>5</sup> Letter from José Francisco Gallardo Rodríguez to the National Human Rights Commission (CNDH) Nov. 16, 1993, pg. 2. Gallardo's thesis in Public Administration was submitted to the National Autonomous University in Mexico City.

<sup>6</sup> José Francisco Gallardo Rodríguez, "Las Necesidades de un Ombudsman Militar en México," *Forum* No. 22, Oct. 1993, pp. 9-14.

<sup>7</sup> *Forum* No. 22, at 13.

<sup>8</sup> *Forum* No. 22, at 14.

<sup>9</sup> "A Mexican General, Imprisoned, Says Army Flouts Human Rights," *The New York Times*, Dec. 23, 1993, p. A7, by Anthony DePalma.

that in a country like Mexico with majority rule and a military under the absolute control of high authorities, the creation of a military ombudsman would be an important step towards the conservation and development of democracy.<sup>10</sup>

## **HUMAN RIGHTS ABUSES COMMITTED BY THE MEXICAN MILITARY**

Brigadier General Gallardo's acknowledgement of military involvement in human rights abuses arose from his years of experience in the Mexican military. Yet, he was not the first to note publicly that the Mexican military was responsible for human rights abuses. The Mexican military has been implicated in serious violations of human rights by the press and by Mexican and international human rights organizations over the past twenty-five years. The most prominent earlier incident was the violent military suppression of student demonstrators in Tlatelolco Plaza in 1968. Despite the scores of students who were killed, the military's role in this operation has not yet been fully investigated.

Following the Tlatelolco massacre, international human rights organizations documented a number of human rights abuses committed by the Mexican military between 1978 and 1990.<sup>11</sup> *Civilians at Risk* by Minnesota Advocates for Human Rights detailed military human rights violations in Chihuahua and Chiapas in 1992 and 1993, including military efforts to intimidate human rights monitors, arbitrary detentions of entire communities, torture, and the destruction of property.<sup>12</sup> Since his imprisonment, Brigadier General Gallardo has stated that other prisoners have reported the frequent use of torture in the military prison, including electric shocks and beatings.<sup>13</sup>

In 1994, military human rights violations received renewed attention with the government's response to the January Zapatista uprising in Chiapas. Minnesota Advocates documented severe human rights violations during its investigation in Chiapas in January of 1994.<sup>14</sup> Americas Watch reported that the military was implicated in arbitrary executions, torture, arbitrary detention, interference with the press and human rights monitors and violations of humanitarian law.<sup>15</sup> Several other human rights delegations have independently confirmed serious military human rights violations in Chiapas.<sup>16</sup>

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<sup>10</sup> Forum No. 22, at 14.

<sup>11</sup> *Mexico: Torture with Impunity*, Amnesty International (Sept. 1991), *Mexico: Los Derechos Humanos en Zonas Rurales*, Amnesty International, (1986), and *Human Rights in Mexico: A Policy of Impunity*, Americas Watch (June 1990).

<sup>12</sup> *Civilians at Risk: Police and Military Abuses in the Mexican Countryside*, Minnesota Advocates for Human Rights (August 1993). This document details incidents in Baborigame, Chihuahua, and the regions of San Cristóbal de las Casas and Ocosingo, Chiapas.

<sup>13</sup> *Proceso*, Dec. 13, 1993, at 24.

<sup>14</sup> Statement of Minnesota Advocates for Human Rights, Feb. 2, 1994, on file at Minnesota Advocates. The Statement highlights military activities including arbitrary executions, arbitrary detentions, and torture, and acknowledges human rights abuses by the Zapatista Army of National Liberation.

<sup>15</sup> *The New Year's Rebellion: Violations of Human Rights and Humanitarian Law During the Armed Revolt in Chiapas, Mexico*, Americas Watch (March 1994).

<sup>16</sup> The Center for Constitutional Rights and the Federation International des Ligues de Droits de l'Homme are two of

Human rights violators in Mexico have frequently acted with impunity, aware that the wrong was not likely to be punished or even acknowledged by the government. This history of impunity is also relevant to the military context, as evidenced at Tlatelolco Plaza in 1968 or in Chiapas and Chihuahua in 1993.<sup>17</sup> On April 26, 1994, military investigators entirely absolved their own forces of responsibility for all 127 cases of human rights abuses presented to them by the Mexican Network of Human Rights Organizations in the aftermath of the Chiapas uprising.<sup>18</sup> This blanket exculpation for well-documented cases of human rights violations represents the continued unwillingness of military authorities to acknowledge and address human rights abuses within their ranks.

## **MILITARY CHARGES AGAINST BRIGADIER GENERAL GALLARDO**

The charges against Brigadier General Gallardo and statements issued by the Ministry of Defense clarify that Gallardo's public discussion of military human rights abuses made him the target of strong military censure. Despite Mexico's obligation to guarantee the right to free expression under international human rights treaties,<sup>19</sup> Gallardo's words marked him for particularly harsh treatment. Gallardo believes that his detention and imprisonment are by order of the Minister of Defense.<sup>20</sup> The truthfulness of Gallardo's fundamental assertion, that serious human rights abuses are committed by the Mexican military, has been met with blanket denials by military authorities.

The Mexican military charged Gallardo with defamation and crimes against military honor for having stated in *Forum* the need for non-military oversight in the protection of human rights.<sup>21</sup> Rather than applaud Gallardo's leadership in affirmatively addressing these problems, the military charges focus on his statements as "insults" and as potentially causing "dislike for the service." A second defamation charge was brought against Gallardo when he demanded that the Minister of Defense protect his

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the numerous human rights agencies who have conducted investigative missions in Chiapas and documented military human rights violations.

<sup>17</sup> Civilians at Risk, Minnesota Advocates for Human Rights (August 1993).

<sup>18</sup> The Ministry of Defense announced the results of its investigations on April 26, 1994. The Network of Human Rights Organizations "All Rights for All" is a group of 35 non-governmental Mexican human rights groups collaborating on investigations in Chiapas since the outbreak of violence in January 1994. Several members of these organizations have faced threats of death and violence for their human rights work.

<sup>19</sup> Mexico has ratified the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights (ACHR). The right to free expression is ensured under ICCPR Article 19, and ACHR Article 13.

<sup>20</sup> Proceso, Dec. 13, 1993, at 21.

<sup>21</sup> General Gallardo was charged under the Code of Military Justice, Articles 280 and 407, part IV. Article 280 is part of Title 8, "Crimes against the Existence and Security of the Military" and prohibits "insulting, defaming or slandering or making libelous statements about the military or its institutions." Article 407 is part of Title 11, Chapter 7, "Crimes Against Military Honor." Part Four of Article 407 prohibits any act or omission "spreading information that could cause lukewarmness or dislike for the service."

security and that of his family.<sup>22</sup> A third charge against Gallardo, which was the basis of his arrest on November 9, 1993, was for misappropriation of funds. This charge arose five years earlier and previously had been abandoned for lack of evidence.<sup>23</sup> The charge was only reinstated when several witnesses made significant alterations to their previous declarations. Gallardo has explained the root of this reopened case as arising from his unwillingness to arrange improper payoffs to the nephew of the Minister of Defense, as well as his denunciations of human rights abuses.<sup>24</sup>

In April 1994 Brigadier General Gallardo was granted relief under the Mexican constitutional writ of "amparo" for one part of the charge against him based on the publication of "The Need for a Military Ombudsman in Mexico." Yet, the Military Court retained the second part of the charge, for crimes against military honor, by arguing that Gallardo's words had "caused dislike in the ranks, provoking a prejudicial change in the conduct and habits of the troops." He was granted "amparo" for the defamation charge based on his letter to the Minister of Defense. The third charge against Gallardo for embezzlement is presently being reviewed by a higher court.<sup>25</sup>

### **MILITARY CENSURE OF BRIGADIER GENERAL GALLARDO**

In addition to pressing charges under the Code of Military Justice, the Ministry of Defense forcefully denounced Gallardo's behavior and his character, and warned all military personnel of "energetic and drastic measures" if they were to follow such a path. The military statements appear designed to silence members of the military who would acknowledge human rights violations and recommend ways to end those violations.

On December 17, 1993 the offices of the Ministry of Defense issued a communique to all military personnel regarding Brigadier General Gallardo and his article on "The Need for a Military Ombudsman in Mexico."<sup>26</sup> The military authorities announced their displeasure with Gallardo for bringing the issue of human rights violations in the military before the national and international media. Stating that Gallardo's thesis had the objective of "dishonoring, offending, and discrediting the Mexican military in the public eye," his work was lambasted as demonstrating "a complete lack of military ethics." While focusing on the potential image problem that Gallardo's assertions might support, the military authorities ignored the truthfulness of Gallardo's premise, that serious human rights abuses exist within the Mexican military.

Rather, the document reiterates that "under no circumstance" will the Mexican military "tolerat[e]" that military personnel of any rank or specialty should take any action against military discipline,

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<sup>22</sup> Letter from José Francisco Gallardo Rodríguez to Minister of Defense, Sep. 13, 1993.

<sup>23</sup> *Proceso*, Dec. 13, 1993, at 21.

<sup>24</sup> *Proceso*, Dec. 13, 1993, at 22.

<sup>25</sup> Telephone interview with Marco Vinicio Gallardo Enríquez, May 2, 1994 and written communication from the Frente Mexicano Pro Derechos Humanos, April 26, 1994.

<sup>26</sup> *Proceso*, Dec. 27, 1993, at 9-11.

decorum and dignity...."<sup>27</sup> The communique, and the charges against Gallardo, reflect the Ministry of Defense's explicit denial of the right of military personnel to denounce human rights abuses committed within and by the Mexican military. By labeling his actions "unethical" the military clearly sends the message that acknowledging human rights abuses within the military context will be harshly punished, and may form the basis of personal attacks as well.

### **PRESSURES AGAINST FORUM MAGAZINE FOR PUBLISHING "THE NEED FOR A MILITARY OMBUDSMAN IN MEXICO"**

Eduardo Ibarra Aguirre, the director of *Forum* magazine, the Mexico City monthly that published Brigadier General Gallardo's article, was called as a witness at an investigative hearing regarding the defamation charges against Gallardo. His name had previously been invoked as the presumed responsible party for defamation and violating publishing laws. When prosecutor's agents presented him with the order to testify, they showed him a military file with information on his personal and political history, in an apparent attempt to intimidate him. At the hearing, the judge took over questioning from the military prosecutor and challenged Ibarra to reveal who had mailed Gallardo's article to the magazine. When Ibarra refused to do so, the judge insisted that he offer legal justification for his silence.<sup>28</sup>

After testifying twice, Ibarra received word that the Attorney General for the Military had invited him to breakfast, and later that the Ministry of Defense was interested in purchasing advertising space in *Forum*.<sup>29</sup> Ibarra turned down both offers. In the December issue of *Forum*, the editors reiterated that their understanding of the freedom of expression was clear, and that "we did not yesterday, nor are we now violating respect for private lives, nor morals, nor the public order."<sup>30</sup>

### **RESTRICTIVE PRISON CONDITIONS FACING BRIGADIER GENERAL GALLARDO AND OTHER DETAINEES AT MILITARY PRISON #1**

Brigadier General Gallardo has been held in the Military Prison #1 in Mexico City since his detention on November 9, 1993. Prison authorities have created restrictive conditions of confinement for Gallardo, which have become increasingly harsh over time. Gallardo's family, lawyer and fellow prisoners have also been subject to pressures at the hands of the military prison authorities, as well as suffering additional harassment apparently related to the case. Since being imprisoned, Brigadier General Gallardo has been interrogated several times on the contents of his thesis.

Brigadier General Gallardo's access to visitors is restricted to his wife, children and lawyer. All of his meetings with his lawyer, Eduardo Trueba Fuster, Esq., are monitored by military personnel and Mr. Trueba has also been the subject of a telephone death threat. During a January trip to Mexico,

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<sup>27</sup> *Proceso*, Dec. 27, 1993, at 10.

<sup>28</sup> *Proceso*, Dec. 20, 1993, at 17-19.

<sup>29</sup> *Proceso*, Dec. 20, 1994.

<sup>30</sup> *Forum* No. 23, Dec. 1993.

U.S. Congressman John LaFalce, the Chairman of the Committee on Small Business, was denied permission to visit General Gallardo three times, each time by a higher authority until the last denial came from the highest level of Mexican government.<sup>31</sup>

Gallardo's family is permitted to visit the prison only two days a week and must go through extensive intake procedures and searches before being granted access. All visitors are prohibited from direct access to the prison and frequently must wait up to four hours for military vehicles to take them to the door. Upon arrival, only visitors with prison issued credentials whose names appear on a previously prepared list may enter, and all visitors are strip-searched. Visitors are photographed at the prison and are thoroughly searched again upon leaving.<sup>32</sup> The prison population has been informed that these stringent measures exist only due to Brigadier General Gallardo's presence.<sup>33</sup> Additional pressures on the Gallardo family included the theft of Brigadier General Gallardo's car from outside the doors of the "Reclusorio Sur" prison. The car was stolen in full view of police officers, in an incident similar to the theft of two other cars belonging to military prisoners.<sup>34</sup>

Gallardo's ability to communicate has been severely restricted during his confinement. His communications and telephone calls are monitored. He has been forbidden access to written materials and to radio or television. Prison authorities have refused to allow his family to bring him communications from friends and other written materials including books and a dictionary have been refused by prison authorities. His efforts to send letters to friends and colleagues outside the prison have been thwarted by prison authorities who have seized personal communications from Gallardo family members on at least six occasions.<sup>35</sup>

Gallardo's personal safety has also been threatened. He reported that a prisoner attacked him and threatened him with death on January 24, 1994.<sup>36</sup> Gallardo was robbed and mistreated by Colonel Joel Pinto Cardenas, the subdirector of the prison, on February 16, 1994. Colonel Pinto shoved Gallardo and removed personal items, including money, from his cell.<sup>37</sup> In continuing efforts to prevent Gallardo from developing support within the prison, on May 3, 1994 all of the residents of his cellblock

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<sup>31</sup> Proceso, Feb. 21, 1994, at 29. Congressman LaFalce had previously expressed his concern for Brigadier General Gallardo and other whistleblowers and human rights advocates in Mexico in a letter to President William J. Clinton, on Jan. 5, 1994.

<sup>32</sup> Proceso, Dec. 20, 1994, at 16.

<sup>33</sup> Proceso, March 14, 1994, at 44-46. Letter from the Frente Mexicano Pro Derechos Humanos (the Mexican Front for Human Rights) to Doctor Jorge Carpizo, Minister of the Interior, January 31, 1994, containing statements by family members of detainees at Military Prison #1. Telephone interviews with Marco Vinicio Gallardo Enríquez, May 2, May 4, 1994.

<sup>34</sup> Proceso, March 14, 1994, at 44.

<sup>35</sup> Telephone interview with Marco Vinicio Gallardo Enríquez, May 4, 1994.

<sup>36</sup> Proceso, Feb. 21, 1994, at 29. Gallardo reported that the prisoner said he was incensed that the prison store, which he ran, had been closed due to Gallardo's presence.

<sup>37</sup> Proceso, Feb. 21, 1994, at 29.

were moved and replaced by other prisoners, one of whom had previously attacked him.<sup>38</sup>

Gallardo has received support from many of his military colleagues, some of whom were held with him at Military Prison #1. Two of these fellow prisoners, who openly demonstrated their support for Gallardo, were suddenly transferred out of the Mexico City military prison to prisons in the Guadalajara, Jalisco on March 8, 1994. Lieutenant Coronel Hector Miguel Bretón was transferred to a military prison and Captain Juan Manuel Iñiguez Rueda was transferred to a high security non-military prison. Neither the family members nor the lawyers of Bretón and Iñiguez were informed of the officers' transfers to other prisons until several hours after the fact.<sup>39</sup> Iñiguez' transfer to a non-military facility built for drug traffickers is improper given that he is being held under an administrative, military charge. After a letter from the Attorney General for Military Justice to Iñiguez' wife explained that the transfer took place for political motives, the Minister of Defense, General Antonio Riviello Bazán justified Iñiguez' transfer as a response to an alleged attempt to escape Military Prison #1.<sup>40</sup> Other prisoners identified as friends of Gallardo have been warned that speaking to him may also result in their being transferred to high security non-military prisons, despite the fact that they are being held on administrative charges. The general prison population has been ordered to limit conversation with Gallardo.

## CONCLUSIONS

The aggressive Mexican government response to Brigadier General Gallardo's open denunciation of human rights violations in the Mexican military threatens the right of free expression in Mexico, particularly where human rights defenders and the press speak publicly about government human rights abuses.

### **The Mexican Government has Violated its Obligations under International Human Rights Law**

The Mexican government has ratified international human rights agreements that guarantee the rights of free expression and opinion. Under the American Convention on Human Rights, Mexico is bound to ensure the right to "seek, receive, and impart information of all kinds,...through the medium of one's choice."<sup>41</sup> The International Covenant on Civil and Political Rights guarantees that "everyone shall have the right to hold opinions without interference" and "everyone shall have the right to freedom of

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<sup>38</sup> Telephone interview with Marco Vinicio Gallardo Enríquez, May 4, 1994.

<sup>39</sup> *Proceso*, March 14, 1994, at 44-46. Captain Iñiguez was transferred to the Centro de Readaptación Social in Puente Grande, Jalisco on April 7, 1994.

<sup>40</sup> Letter from Lic. Mario Guillermo Fromow García, Attorney General of Military Justice to Sra. María del Carmen Mendoza, March 11, 1994, and communication from General Antonio Riviello Bazán, Secretary of National Defense, to the Fifth District Judge in State Criminal Court, Juanacatlán, Jalisco, April 7, 1994. Captain Iñiguez is being held on an embezzlement charge that if dropped, would implicate several other high ranking officers.

<sup>41</sup> American Convention on Human Rights, Article 13, Freedom of Thought and Expression. Published in the Federal Diario Oficial on May 7, 1981.

expression."<sup>42</sup> The Mexican government's charges against Gallardo for defamation and crimes against military honor, the public statements against him, the hostile interviews of the *Forum* magazine editors, and the restrictive prison conditions imposed on him represent government interference and intimidation of the right to free expression.

The international norms protecting free expression are conditioned by concerns for the "protection of national security or of public order."<sup>43</sup> The defamation charge against Brigadier General Gallardo alleged that his statements were impermissible because they were favorable to foreign governments and put the nation's sovereignty at risk.<sup>44</sup> Yet, international human rights law explicitly prohibits state efforts to destroy guaranteed rights and freedoms.<sup>45</sup> It would contravene the letter and spirit of Mexico's obligations under international human rights law to punish a government employee for denouncing human rights violations.<sup>46</sup>

Brigadier General Gallardo was charged under legal provisions so broad that they imperil the protection of the rights to free expression and opinion. The military code provision for crimes against military honor, for "spreading information that could cause... dislike for the service" permits prosecution for an enormous range of expression without regard for its truthfulness. Other Mexican legal codes also permit defamation charges for expression without regard to its truthfulness.<sup>47</sup> While the Mexican Constitution broadly states the right to free expression in keeping with international human rights instruments, Brigadier General Gallardo's case demonstrates a failure to ensure that those protections are upheld.<sup>48</sup>

### **Brigadier General Gallardo's Case Contributes to Government Efforts to Stifle Human Rights Advocacy and Reporting**

The Mexican government's retaliatory actions against Brigadier General Gallardo add to the hostile environment facing human rights defenders and the press in Mexico. Human rights advocates and journalists in Mexico frequently face government intimidations. In May of 1990, Norma Corona Sapién, the director of the Sinaloa Commission to Defend Human Rights, a non-governmental

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<sup>42</sup> International Covenant on Civil and Political Rights, Article 19. Published in the Federal Diario Oficial on May 20, 1981.

<sup>43</sup> International Covenant on Civil and Political Rights, Article 19 and the American Convention on Human Rights, Article 13.

<sup>44</sup> *Proceso*, Dec. 20, 1993, at 19.

<sup>45</sup> International Covenant on Civil and Political Rights, Article 5.

<sup>46</sup> Article 4 of the International Covenant on Civil and Political Rights would permit the derogation of Article 19 only following the formal declaration of a state of emergency.

<sup>47</sup> The Criminal Code for the Federal District criminalizes defamation despite the truthfulness of the information. Criminal Code for the Federal District, Article 350.

<sup>48</sup> Mexican Constitution, Title One, Article 6 and Article 7.

organization documenting police human rights abuses, was killed. The evidence in the case points to responsibility of police officers and drug traffickers.<sup>49</sup> Victor Clark Alfaro, the Director of the Binational Center for Human Rights in Tijuana, Baja California was recently charged with defamation when he published a report on corrupt policemen selling identity cards to drug traffickers.<sup>50</sup>

Human rights organizations have long investigated intimidations which have ranged from frequent government denunciations of human rights workers as "defenders of drug traffickers" to assassinations. Minnesota Advocates has documented intimidations of human rights defenders, including lawyers, priests and journalists in several reports.<sup>51</sup> Other international human rights organizations have detailed more than 50 deaths of Mexican journalists in the past 20 years, and continued attacks and threats against journalists and human rights workers.<sup>52</sup>

The Mexican government's commitment to protecting human rights is fundamentally at odds with the persecution of those who publicly denounce abuses. By censuring Brigadier General Gallardo, the Mexican government imperils both a fundamental right to free expression and a critical tool in the effort to end human rights abuses. Human rights, rather than human rights violators, are on trial.

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<sup>49</sup> Mexico Under Salinas, Philip Russell (1994), at 156.

<sup>50</sup> "Mexico's Application of Defamation Law Blows Away Whistle-Blowers," The Washington Post, Dec. 30, 1993, at A16.

<sup>51</sup> Civilians at Risk (Aug. 1993), Conquest Continued (Oct. 1992), and The Homicide of Dr. Victor Manuel Oropeza Contreras (Dec. 1991), by Minnesota Advocates for Human Rights.

<sup>52</sup> *See e.g.*, Unceasing Abuses: Human Rights in Mexico One Year after the Introduction of Reform Americas Watch (Sept. 1991), Mexico: Torture with Impunity, Amnesty International (Sept. 1991), and Information Freedom and Censorship, Article 19 (1991), at 112-115.