

## Campaign: **Break the wall... of impunity!**

During the last 10 years a culture of military impunity has taken hold in Mexico. To date, the perpetrators of serious human rights violations have not been sanctioned. On the contrary, the Mexican State has taken it upon itself to protect the Armed Forces with a kind of amnesty. Consequently, today cases such as those of Inés and Valentina continue unresolved and awaiting justice.

Inés and Valentina are two Me'phaa (Tlapaneca) indigenous women from Ayutla de los Libres (in the South of Mexico), who were illegally detained, tortured and raped in 2002 by soldiers from the 41st Infantry Battalion, with barracks in Cruz Grande municipality.

Due to the lack of access to justice in Mexico, Inés and Valentina were obliged to turn to international courts and as a result of their struggle, their cases are now before the Inter-American Court of Human Rights (the Court). Inés's hearing will take place on 15<sup>th</sup> April 2010 in Lima, Peru. The date of Valentina's hearing will be in 27 may.

In the run up to the hearing, the Centre for Justice and International Law (CEJIL) and Tlachinollan Human Rights Centre, have initiated the campaign **Break the wall... of impunity**, which aims to weave a solidarity network and unite the voices that demand justice for both women.

Break the wall of impunity too so that many women, above all humble indigenous women such as Inés and Valentina, no longer have to face multiple layers of discrimination from the Mexican State's institutions when they decide to overcome cultural and social barriers to demanding their fundamental rights.

### **Valentina Rosendo Cantú.**

*"I do believe that even if it arrives late, justice will come and I am going to seek justice."* (Valentina's words during an interview)

On the afternoon of 16th February 2002, Valentina, who was barely 17 years old, was washing clothes in a stream near to her home in Barranca Bejuco community, Ayutla de los Libres municipality. She saw eight soldiers from the 41<sup>st</sup> Infantry Battalion approach. They brought a civilian with his hands tied together with them. Two of them approached Valentina and they asked her to tell them where to find *"the hooded men."* When she answered that she didn't know any, they pointed their weapons at her and they threatened her. Then they showed her a photo and asked who it was. They also showed her a list of 11 names. When she responded that she didn't know anyone, the soldier who was pointing his weapon at her hit her in the stomach with

the butt of his rifle and she fell to the floor. She momentarily lost consciousness. Straight away a soldier pulled her hair and continued to question her. They warned her that if she did not give them the information that they would kill everyone in the community. Finally, two soldiers raped her whilst the others looked on.

Valentina did not receive adequate medical attention. The doctor from the health clinic in Barranca Bejuco refused to treat her, arguing that he did not want “to have problems” with the soldiers. Due to the discomfort that she was suffering, Valentina was forced to walk for eight hours to Ayutla, where she was examined. In his diagnosis the doctor informed that she had only been beaten in the abdomen; he did not provide her with any medication and he did not carry out any studies. Some time later her legal advisors intervened; Valentina received medical attention and underwent surgery.

In spite of the fact that Valentina denounced these events to the civilian authorities, eight years have passed without any soldier facing a legal process or sanction. Valentina is still standing and waiting for justice to arrive one day.

*“It is very sad to know that there will never be justice”*

*Inés Fernández Ortega*

On 22nd March 2002, Inés was preparing flavoured water in her house, located in Barranca Tecuani community, Ayutla de los Libres municipality, accompanied by four of her children aged 3, 4, 5 and 9 years old, when 11 soldiers showed up at her door. Three of them entered forcefully and they asked her for her husband. Whilst they pointed a gun to her chest, they questioned her regarding where she obtained the meat that she was drying out on the patio. They assured her that it was stolen. Inés did not reply because she does not speak Spanish. Her silence made the soldiers angry and they raped her straight away. Her terrified children ran to their grandfather’s house to get help.

When the soldiers left and Inés closed the door to her house, she was able to see that they stole the meat which was intended for her and her family.

Inés and her husband reported these events to the civilian authorities, so that those responsible would be punished, but to date her case remains in impunity. However, Inés retains the hope that there could be justice one day.

#### **Unheeded recommendations.**

In their search for justice Inés and Valentina presented (separate) complaints before the Commission for the Defense of Human Rights in Guerrero (Coddehum) against the Army for the violation of their human rights. Given that the case involved members of a federal authority and therefore was beyond its competence, this institution sent the case files to the National Human Rights Commission (CNDH).

In Valentina's case, the CNDH ruled months later that during their analysis they had not found any elements to prove the violations she suffered and therefore the complaint could not be acted upon.

With regards to Inés's case file, on 28th November 2003, the CNDH released recommendation 48/2003, directed to the National Defence Secretary and the government of Guerrero. They asked the former to give instructions to carry out the preliminary investigations properly and initiate administrative procedures against those responsible for the omissions permitted by the agent from the Military Prosecutor's Office in charge of the aforementioned case file.

In their recommendations to the government of Guerrero, the CNDH asked them to initiate administrative procedures against those responsible for the deficiencies and omissions of public servants from the General Department of Justice in Guerrero State who lost Inés's gynecological samples that were to serve as key evidence.

Unfortunately the authorities did not comply with the recommendations. No administrative procedures were initiated against those responsible either within civilian or military jurisdiction, for the deficiencies and omissions that took place.

#### ***Inés and Valentina before the Inter-American system***

In spite of the constant obstacles and the winding road that they had to travel in the civilian courts, Inés and Valentina have been an example of tenacity in their struggle for justice. When the civilian authorities declared incompetence and remitted the cases to military jurisdiction, they appealed the decision. However, their appeals were refused and Inés and Valentina continued to struggle until they had exhausted all of the legal recourses.

After a failed legal battle for the civilian authorities to assume jurisdiction of their cases, Inés and Valentina were obliged to turn to the Inter-American Commission on Human Rights (IACHR). Valentina did so on 6<sup>th</sup> November 2003 and Inés on 14<sup>th</sup> June 2004.

This international body declared the cases admissible on 21st October 2006 and one year later, on 12th October 2007, Inés and Valentina went to a public hearing granted to them by the IACHR. During the hearing the Mexican Army's responsibility for these serious human rights violations was demonstrated.

In April 2009, the IACHR released its in-depth report on Inés's case. The state's failure to respond led this international body to report the Mexican State to the Inter-American Court of Human Rights in May 2009 and they granted a hearing to Inés in Lima, Peru on 15<sup>th</sup> April this year.

#### ***Who are Tlachinollan and CEJIL***

In their struggles to access justice, Inés and Valentina have been accompanied by human rights organisations such as Tlachinollan, which is based in Guerrero and recently, CEJIL, whose

offices are in Costa Rica. Both NGOs have a very important role in the promotion and defence of human rights, as explained below:

### 1. **TLACHINOLLAN**

Comentario [U1]:

Tlachinollan Human Rights Centre is a non-governmental organisation that for 16 years has accompanied Nua, e'phaa (Tlapaneco), Na'Savi (Mixteco), Nn'anncue (Amuzgo) and mestizo peoples in the Montaña and Costa Chica regions in their struggles for justice and the full respect of their human rights.

With its work, Tlachinollan aims to achieve dignity and justice for Nua, Na savi (Mixtec), Me'phaa (Tlapaneco), Amuzgo and Mestizo (dual heritage) peoples by working towards the full respect of their human rights.

Also, from a perspective of cultural diversity, Tlachinollan promotes and defends the rights of the Nua, Na savi, Me'phaa, Ñomdaa and Mestizo peoples of the Costa-Montaña region of Guerrero in order to collaborate in the construction of legitimate and pacific paths that guarantee the respect of the human rights.

### 2. **CEJIL**

The Centre for Justice and International Law is a regional organisation for the defence and promotion of human rights in the American hemisphere. CEJIL's primary objective is to achieve the full implementation of international human rights norms in the member states of the Organization of American States (OAS), through the effective use of the Inter-American System of Human Rights.

CEJIL was founded in 1991 by outstanding human rights defenders in Latin America with the aim of ensuring greater access to the Inter-American System for the victims of human rights violations. With its defence programme, CEJIL was the first organisation to offer a free service, specialised in the Inter-American System for the protection of human rights.

#### ***What is the Inter-American System***

The Inter-American System has developed within the Organization of American States (OAS), during the second half of the 20th century; replicating the movement initiated on a European and Universal level for the creation of international mechanisms for the protection of human rights.

The Organisation of American States' Charter, gave life to the organisation in 1948 and defines the structure of its institutions. Also, it includes commitments relating to democracy and human rights and it created the Inter-American Commission on Human Rights (IACHR).

In addition to the OAS Charter, there is the American Declaration on the Rights and Duties of Man, which determines the human rights referred to in the charter and consequently is a source of international obligations.

In 1969 the American Convention on Human Rights is adopted and it enters into force in 1978. These instrument grant additional faculties to the IACHR and creates the Inter-American Court on Human Rights.

This is how the Inter-American system bases its work on two institutions: the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights.

During the last 25 years the nations in the region have strengthened the legal framework of the Inter-American system with the adoption of other instruments: the Additional Protocol on the American Convention on Human Rights with regards to Economic, Social and Cultural Rights (San Salvador Protocol), the Protocol regarding the Abolition of the Death Penalty, the Inter-American Convention to Prevent and Punish Torture, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Belem do Para Convention) and the Inter-American Convention for the Elimination of All Forms of Discrimination against People with Disabilities.