

State Violence
Against
Women
in Mexico

The San Salvador Atenco Case

Alternative Report to CAT

37th session



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EXECUTIVE SUMMARY

In May 2006, state and federal police officers carried out a police operation plagued with human rights violations that were committed indiscriminately against people belonging to a social movement, its sympathizers and local residents, whom, in many cases, did not have any links to the social movement. Inhabitants from San Salvador Atenco were victims of illegal searches and damages to their properties. Two hundred and eleven people were arbitrarily detained (without an arrest warrant); all of them were tortured and/or mistreated. Two people were killed; one of them a minor. Forty-seven of the detainees were women, who represented the victims that suffered the greatest rights violations; they were raped and endured other forms of sexual violence such as groping, insults and threats of rape.

The abuse of women during the police operations last May in San Salvador Atenco, which we are documenting in this alternative report, demonstrates the gender violence and, as a result, the torture and ill-treatment that the Mexican State and its agents are capable of, using the justification of “reestablishing the rule of law and social peace”.

We believe that the sexual violence detailed in this report was used to intimidate and coerce, demonstrating obvious discrimination against the victims just because they were women. We affirm this because the rapes and sexual abuses were not extended to men to the same extent. Acts such as those described in this report are a manifestation of the situation of vulnerability women find themselves in during the implementation of police operations that have the prevalence and tendency to lead to the sexualization of torture. This is a clear sign of the existing discrimination that is common in governmental actions and which have not been eradicated in the current government’s term, despite some of the positive steps the current government has taken to fight violence against women.

An unmistakable example of what we have attested to above is that, following the public reports of the human rights violations, several State authorities made clear through their actions and speeches that gender violence and discrimination prevail among public servants, contradicting decisions by the Mexican Supreme Court.

This situation is not unique, but rather demonstrates a pattern of violence against women that is carried out by the Mexican State of which perpetrators enjoy total impunity. There are other similar cases of State violence against women, including those that have been documented by the Inter-American Commission on Human Rights (IACHR).

The legal framework that governs public security policies at the municipal, state and federal levels, and as it is implemented throughout the current administration, allows for arbitrariness by police officers in charge of law enforcement. This clearly contravenes the State's human rights obligations with respect to actions that mainly affect women, who are placed in situations of real vulnerability in these kinds of police operations, which in turn, generate the conditions for government agents to perpetrate discriminatory and violent acts against women that, in our opinion, may constitute torture.

Serious obstacles to justice still exist for women who have been victimized while in State

custody, including a lack of coordination between federal and local legislations; little independence on the part of the Public Prosecutor; the discretion given to police officers to enforce the law; and lack of political will, all serving to delay investigations and/or obstruct justice. There does not exist sufficient political will, nor legal options to effectively punish State agents involved in abuses, whether actively or by inaction.

Several human rights organizations have issued a series of recommendations to the Mexican government and which have not been implemented or just plain ignored. One example is the recent recommendation issued last August by the Committee on the Elimination of Discrimination Against Women (CEDAW), appealing for the Special Prosecutor's Office for Violent Crimes Against Women to take on the investigation of these abuses, which has not been implemented yet.

In Mexico the sexual violence committed by police officers against women during police operations still goes unpunished. As a result, discrimination and violence against women by law enforcement institutions continue, thus legitimizing torture through sexual violence against detained women. Evidence of this includes the delay in initiating investigations that should have been started immediately when the women reported the sexual attacks.

Accordingly violence against women, as exemplified in this report, has not been publicized or adequately dealt with in the fourth periodical report presented to the Committee by the Mexican government. No public policies exist that focus on combating these types of abuses, the necessary legislation and legal options are lacking and consequently, there are no steps taken to implement the structural changes needed to stop these violations. These deficiencies are magnified further by a lack of political will at all levels of the legislative and executive bodies, and their unwillingness, first, to perform their assigned duties, and second, to guarantee female victims' access to justice following State violence.

We recommend to the State the following:

1. Implement necessary measures to guarantee reparations for the harm caused to the detained women, using the highest standards of protection obligated to the Mexican State to grant full rehabilitation and redress to these women. These reparations must include not only financial payments but also the implementation of those measures needed to correct the individual and collective emotional distress that the people, especially women, suffered in San Salvador Atenco.
2. Carry out a prompt and impartial investigation of systematic human rights violations committed during the police operations in San Salvador Atenco on 3 and 4 May 2006; guarantee the right to a fair trial to the 36 women who are currently subjected to criminal charges, and in absence of valid charges, order the immediate release of the seven women who are still imprisoned and absolve all of them.
3. Modify the legislative framework and the practices of law enforcement forces, and when it is proven that the police operations were indeed crimes committed

against the life and physical and psychological integrity of women, ensure the investigation and punishment of those high ranking officers in charge of the police operations.

4. That the Special Prosecutor's Office for the Attention of Violent Crimes Committed against Women, part of the Federal General Attorney's Office, assume responsibility for the complete investigation into the abuses committed against women during the police operations carried out in San Salvador Atenco.
5. Report on the crime rates of police and military forces, both at the state and federal levels, of crimes against life and the physical and psychological integrity of women. In addition, the Mexican State must adopt preventive measures to end these practices, report on the programs and their follow-up and assessment as to the efficacy of these programs.

ALTERNATIVE REPORT

“VIOLENCE AGAINST WOMEN IS PERHAPS THE MOST SHAMEFUL HUMAN RIGHTS VIOLATION AND IT IS PERHAPS THE MOST PERVASIVE. IT KNOWS NO BOUNDARIES OF GEOGRAPHY, CULTURE OR WEALTH. AS LONG AS IT CONTINUES, WE CANNOT CLAIM TO BE MAKING REAL PROGRESS TOWARDS EQUALITY, DEVELOPMENT AND PEACE.”

Kofi Annan
UN Secretary General

International Women's Day, 8 March 1999

INTRODUCTION

The following report is presented to the Committee Against Torture (CAT) on behalf of the Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM), the World Organization Against Torture (OMCT), non-governmental organization in special consultative status, and the “Miguel Agustín Pro Juárez” Human Rights Center (Center Prodh), non-governmental organization in Roster status.

The report documents human rights violations committed against women by agents of the Mexican State during May 2006, in the town of San Salvador Atenco, *Estado de México*¹. By documenting these facts, we would like CAT to take special notice that the systematic violence suffered by women during police operations is an unseen problem that is rarely mentioned by the Mexican State in its recent report presented before the aforementioned committee.

We have specifically documented violence incurred by State agents against women illegally detained who were victims of physical, psychological, verbal abuse in addition to sexual violence used as a method of torture in the town of San Salvador Atenco during a political conflict between social movements and State agents.

¹ *Estado de México* is a state bordering Mexico City.

I. OBLIGATIONS OF THE MEXICAN GOVERNMENT RELATED TO VIOLENCE AND DISCRIMINATION AGAINST WOMEN

The current administration's (2000—2006) foreign policy has been very active and successful at the international level. It has won legitimacy with the international community for its effort to promote human rights initiatives at the regional and international level. Furthermore, it has shown an apparent opening in its policy with regard to the international community's scrutiny of human rights, contrasting with its former administration's foreign policy.

Additionally, the Mexican government has made international human rights commitments when ratifying various international human rights instruments applicable to this case, some of them specifically to the situation of violence and discrimination against women. Among these are the Convention on the Elimination of All Forms of Discrimination against Women (hereafter the CEDAW) of 1981; the Optional Protocol to the CEDAW, of which Mexico has been a signatory since 2002. Additionally, Mexico ratified the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter CAT) in 1987; the Optional Protocol to the CAT in 2005; the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which were ratified in 1981. At the regional level, Mexico ratified the Inter-American Convention for the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará) in 1988 and the Inter-American Convention to Prevent and Punishment of Torture (IACPPT) in 1987.

At the domestic level, Mexico amended the Federal Constitution in 2001 outlawing all types of discrimination, including sexual discrimination, in response to pressure from feminist groups and female human rights defenders. Also in 2001, the federal government created the National Women's Institute (InMujeres) with the intention of promoting the full exercise of women's rights, under the criteria of cross-cutting public policies of governmental bodies. Furthermore, the Attorney General's Office recently created the Special Prosecutor's Office for Violent Crimes Against Women in order to replace the Special Prosecutor's Office to Prevent and Eradicate Violence against women in Ciudad Juárez, Chihuahua, whose jurisdiction was only local. Additionally, the federal government took on the task of elaborating a questionnaire allegedly based on the principles of the Istanbul Protocol, called "*Dictamen Médico/Psicológico Especializado para Casos de Posible Tortura y Maltrato*", only applicable at the federal level, valid from 18 August 2003.

All of the above can undoubtedly be considered advances in the fight to prevent torture, violence and discrimination against women in Mexico. Nevertheless, as we explain further, the public security policies are clearly uninterested in implementing measures to fight violence incurred by security agents against the civilian population and particularly women. National and international NGOs have documented evidence that proves women are particularly vulnerable to the excessive force used while police operations are carried out with the supposed purpose of reestablishing public order. This behavior on behalf of State agents fails to comply with the international commitments the Mexican government

has made to ensure the safety of all citizens.

It specifically contradicts what is stated in the General Comment Number 19 adopted by the CEDAW² and articles 1 and 2 in the CEDAW; articles 2, 11 and 12 of the CAT; articles 1, 2, 3, 4, 7, 8 and 9 of the Belém do Pará Convention; and article 2 of the IACPPT. It also contradicts the principles of absolute need, reasonableness and proportionality of the United Nations³. The violence committed against women in the examined case took place particularly through the aggression and invasion of their bodies and sexuality in addition to other violations of human rights, such as arbitrary detention and failure to follow due process.

This is not the first case of this kind of violence that has been documented. For many years now, women's and human rights organizations have registered cases of violence against women, in particular sexual violence, that have been committed by police or military functioning as public security forces. Some of these cases have been reported by Center Prodh along with other national and international NGOs (see *Other cases of abuse against women by State agents*) and currently remain unpunished.

The fourth periodical report presented by the Mexican government before the CAT, does not mention explicitly such issues. There are no criteria for an objective evaluation and measurement of the impact of educational activities and programs, nor is there follow-up to gauge the change in long-held prejudices and the resulting behavior. It does not present any information that would allow for an assessment of the impact of educational activities, or the follow-up on the change to prejudice and practices that violate human rights. It also fails to mention the public security measures that have been adopted by discretionary faculties delegated to police agents in Mexico to intervene during demonstrations of social discontent in order to combat insecurity and to reestablish the rule of law. Furthermore, the report makes no mention of how these actions specifically affect women. The arbitrary actions committed against women by security agents undoubtedly violate women's rights to physical, psychological and sexual integrity as well as their personal liberty. The following case of detained women in San Salvador Atenco exemplifies such violence.

² General Comment 19, adopted by the Committee on the Elimination of Discrimination against Women, 11th period of sessions, U.N. Doc. HRI/GEN/1/Rev.1 at 84 (1994).

³ U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted on 7 September 1990) and the Code of Conduct for Law Enforcement Officials (adopted on 17 September 1979).

II. THE SAN SALVADOR ATENCO OPERATION AND ITS CONTEXT

During 3-4 May 2006, hundreds of police officers pertaining to the Mexican State security forces (municipal, state and federal) carried out a police operation in which they committed grave human rights violations against civilians under the justification of reestablishing order and social peace in the town of San Salvador Atenco, *Estado de México*.

This operation began as a political conflict between the municipal authorities and groups of flower vendors and other individuals belonging to a social movement with the self-proclaimed title of *Frente de Pueblos en Defensa de la Tierra* (United People's Front in Defense of the Land, FPDT⁴). This conflict began in opposition to the government's initiative to prevent street vendors from working in the center of the city of Texcoco⁵. The street vendors and FPDT members attest to having reached an agreement with the local authorities on 2 May allowing them to set up in the main square.

Contradicting this agreement, on the morning of 3 May, hundreds of municipal and state security forces attempted to prevent the vendors from setting up while following the instructions from municipal authorities backed by the *Estado de México* government. In response to this, some members of the FPDT and some opposed civilians began challenging the security forces, initiating the first violent confrontation between the two sides. As a result, FPDT supporters were detained and at one point hundreds of individuals were surrounded by police forces. As a proof of their disapproval, FPDT members blocked the intersection that leads to Texcoco as well as the San Salvador Atenco-Texcoco federal highway, demanding liberation. Later in the afternoon, there was another violent encounter when state police attempted to breakup the protest on the federal highway. Nevertheless, the police were forced to back down while various police officers were taken hostage in addition to the minor Javier Santiago who died immediately due to a bullet wound.

For the remainder of 3 May, even though the police forces had left the area where the conflict took place, the town of San Salvador Atenco remained surrounded by security forces until 4 May. During the night of 3 May and morning of 4 May, approximately 3,500 members of the (state and federal) security forces carried out a suppressive police operation in which they indiscriminately used excessive force. The police assaulted and detained as many people as they could in such a way that victims of their abuse included florists, members of the FPDT and other social movements from different parts of the country, foreigners that showed solidarity with the conflict as well as people completely unrelated to the political conflict.

⁴ FPDT is a social movement that began in 2001 to resist the federal government's initiative of expropriating their land in order to build an international airport.

⁵ Texcoco municipality belongs to *Estado de México* and is 20 minutes away from the San Salvador Atenco municipality.

II.1. Registered human rights violations

Center Prodh has documented houses being entered without a search warrant; attempts to harm the physical integrity of women, men and children; failure to comply with the minimal guarantees of due process and 6 foreigners were illegally deported from Mexico⁶. After carrying out the operation, on 4 May, Javier Santiago, a 14-year-old minor, was reported dead and Alexis Benhumea, a 20-year old student⁷, had suffered cerebral death. Furthermore, dozens were wounded and 211 people were arbitrarily detained. The majority of people detained were severely beaten, which reflects the excessive violence used by security forces against the civil population. The following testimony⁸ exemplifies the type of human rights violations committed by police agents in San Salvador Atenco:

On May 4, around 8:30 AM, we were hidden in a house, 7 men, 2 women and a 14-year old boy. About 15 granaderos (anti-riot police) showed up at the house and started insulting us. They started beating the boy when he was trying to change his shirt since it was soaked in tear gas, a few of them beat him until he was all bloody. They ordered us to kneel in front of a wall with our hands behind our heads and our shirts covering our faces, they started beating our heads with clubs and then arrested us.

“Lorena,” 22, student

The National Human Rights Commission (CNDH)⁹ confirmed in its recommendation directed at the Mexican government, issued last 16 October, that it is indeed the police and military bodies that intervened in the police operations in San Salvador Atenco who are responsible for the deaths of Alexis Benhumea and Javier Cortés Santiago¹⁰. This recommendation is based, amongst other things, on testimonies gathered by CNDH representatives; evidence put together and verified by CNDH; reports produced by national and international human rights organizations and reports that were based on a questionnaire (a version of the Istanbul protocol) that was presented to 26 people by CNDH representatives.

⁶ International Civil Commission for Human Rights Observation (CCIODH), Fourth visit, 29 May—4 June 2006, Preliminary report about the events in Atenco, Mexico, June 2006, p. 92.

⁷ Young man who died in June 2006, as the result of his head being beaten by a police officer that threw a tear gas bomb directly at him. Security forces blocked the town preventing doctors from entering in order to provide medical assistance.

⁸ It is necessary to clarify that not all the names used in this document correspond to the actual names of the victims, which will remain safeguarded as to respect their wishes and protect their safety. The testimonies cited in this document were given to Center Prodh by the victims themselves.

⁹ A financially autonomous public body, but without complete political independence.

¹⁰ CNDH, “Recomendación 36/2006, sobre el caso de los hechos de violencia suscitados los días 3 y 4 de mayo de 2006 en los municipios de Texcoco y San Salvador Atenco, Estado de México”, October 16, 2006. Available at: www.cndh.org.mx.

In relation to the situation of women, Center Prodh documented the arrest of 47 women¹¹ who reported along with other detainees that they were victims of physical abuse as well as sexual violence through molestation, insults, and threats of violence and in multiple cases rape from police. This type of sexual violence was exerted specifically against women for only one case of male rape was documented. Here follows a detailed explanation of the situation of women in San Salvador Atenco.

The CNDH directed its Recommendation 38/2006 at the Federal Secretary of Public Security (SSP), the government of the *Estado de México* and the National Institute of Migration. In this Recommendation, the CNDH does not list the individual authorities responsible for or provide details of the abuses in San Salvador Atenco. It only makes recommendations in general terms in order to initiate investigations and /or continue the judicial and administrative processes to sanction the public servants involved in the operation¹².

II.2. Violence against women during the police operation

There were, among the 47 detained women, adolescents, students, housewives, four foreigners and one indigenous woman. All of them were accused, without legally acceptable evidence, of the crimes of attacks on the federal infrastructure of communication and of being members of organized crime. At this report's writing, 40 women had been freed; 36 out of these were freed on bail. Four foreigners were deported illegally.

During the time of detention and the transfer to the Santiaguito penitentiary, 47 detained women reported having suffered sexual, physical and/or verbal violence from police as reported to various government bodies and NGOs, including Center Prodh. 27 of them reported sexual aggressions including pinching and biting of the breasts, groping of their genitals, oral, vaginal and anal rape with fingers and other objects. The police also exercised sexual violence when verbally threatening to rape the detained women and using highly discriminatory language related to the women's sexual condition. Some of the women's clothes were violently removed and all of the women were forced to lift up their shirts in such a way that covered their face while showing their chest and abdomen.

The way to the prison lasted nearly six hours, during which the women suffered miserable conditions of mistreatment and were completely defenseless against the police. It is worth clarifying that under normal conditions the route from where the women were arrested to the prison takes approximately only two hours. All of the testimonies gathered coincide, affirming that the buses used to transport the women stopped various times en route to the jail.

Upon arriving to the prison, numerous women were forced to pass through lines of male

¹¹ The recent recommendation by the CNDH states that there were 50 women transported on the buses of police forces.

¹² Ibid, Part "V. Recomendaciones".

police officers, who were waiting for them, forced to be spanked and groped by the police once more. The following testimonies reveal how the police took San Salvador Atenco, invaded the streets and houses, the damages they incurred and the verbal, physical, sexual and psychological violence used primarily against women during the operation¹³.

[...] They ordered us to kneel down in front of a wall with our hands behind our heads and with our shirts covering our faces, they started beating our heads with clubs. They started groping both of my breasts and butt again and all of a sudden I felt a hand fondling my genitals and sticking fingers into me. Then they ordered us to stand up, but the signal was a strike to the ribs with a club. [...] The blows followed and they ordered us to leave the house, they made us stay on the sidewalk, I remember that they brutally beat another woman and that they kept on groping her breasts and then I was finally at the end of the line. They started to beat my ribs with the club, the pain was horrible and even though I preferred to not bend over, they kept on hitting me so hard that I'd buckle over. [...] One policeman, I think he was a chief, asked me where I was from and when I responded he yelled to another officer, "Look, this bitch is from Tepito!"¹⁴ Then his partner came over and grabbed me by the hair and started slapping me until I began bleeding, and the shirt of the person I was on top of got completely soaked in blood and I heard the police telling me, "We're going to do the same to you as they did to our partner"¹⁵. After I heard another policeman say, "Come on, leave her alone!" and that's when they closed the door to the van where they had us and one guy said, "We have to give this bitch a calzón chino"¹⁶ he started to pull my underwear and realized that I was menstruating because I had a sanitary napkin on. He yelled to the other policemen, "Look, this bitch is bleeding, let's dirty her up a little more!" I felt him violently insert his fingers into my vagina repeatedly until he got tired and I couldn't think straight anymore, but I remember saying, "My God, what are they going to do?"

"Alejandra," 22, student

When they forced me onto the van, they hit my left eye really hard and three people pulled me aside, they only separated the women and I was one of them. One of the guys asked me my address, name, age and they took my picture. Afterwards they started putting their head between my breasts and sticking their fingers in my mouth and they wanted me to suck them and one of them made me perform oral sex. He finished and left and then a second guy came and made me do oral sex again. He

¹³ These testimonies are representative of the different testimonies Center Prodh documented. Further testimonies can be found in Appendix 1.

¹⁴ Tepito is a working-class neighborhood in Mexico City with an active social movement and high delinquency rates.

¹⁵ On 3 May, a police officer was captured by a group of protesters that violently beat him. This scene was filmed and repeatedly transmitted on television channels during the days following the operation.

¹⁶ Calzón chino is a Mexican term referring to the act of violently pulling someone's underwear up behind them in a painful way.

finished and went away and a third guy came and told me that if I wanted him to help me I had to be his whore for a year and live wherever he wanted me to and he made me do oral sex on him and he stuck his fingers in my vagina and he grabbed my breasts really hard. I performed oral sex on him because he had me by my hair and told me that if I didn't do it they were going to beat the shit out of me. They took my cell phone and \$300 pesos away from me, they took off my sweater where I spit out their sperm and the fourth one came into the room and began masturbating and another one told him, "Dude, stop because we're already there." They cleaned me up and gave me a cigarette to smoke, which I don't do, and they made me get out of the van and into the prison.

"Sandra," 18, worker

When I got into the van that I was transported to the jail, I was stacked on top of other people people that were laying on the floor of the van and then they pulled me to the back seat. They tore my underwear and pulled my pants down to my feet and my shirt up to my head, slapped my buttocks really hard while they threatened me with rape and death. The policeman that beat me yelled at me to call him "vaquero" ("cowboy"), he hit me five or six times until he heard what he wanted. Immediately afterwards he penetrated my vagina with his fingers while he hit me and threatened me more. He called another person (police officer) over and he hit me in the stomach so he could put his tongue in my mouth. This guy penetrated me, too, while he saying to other people, "Come try this bitch out!" All three of them took turns pinching my nipples and groping my breasts really hard. After that they penetrated me with an object that I couldn't really identify, but it was cold and seemed to be made of metal. They forced me to travel naked with my head down in the seat and my buttocks upwards the entire time, they beat my butt, legs and ribs.

"Ana," 27, student

II.3. Concern and recommendations by national and international bodies

To date, many national and international bodies have expressed their concern about the abuses in San Salvador Atenco and some have issued their recommendations. Amongst them the CEDAW, which last August, referred specifically to the abuses committed in San Salvador Atenco, when issuing its concluding observations on Mexico during its 36th session. The CEDAW expressed its concern for the "persistence of the widespread and systematic violence against women.... in particular about the acts of violence committed by public authorities against women in San Salvador Atenco, State of Mexico"¹⁷. As a consequence the CEDAW recommended that the Mexican government make sure that "...the Special Prosecutor for Offences related to Acts of Violence against Women... is given jurisdiction over the case of crimes in San Salvador Atenco so as to ensure the

¹⁷ UN, CEDAW "Concluding comments of the Committee on the Elimination of Discrimination against Women: Mexico"; August 25, 2006; CEDAW/C/MEX/CO/6, par. 14.

prosecution and punishment of perpetrators. It recommends that the State party provide the necessary economic, social and psychological assistance to the victims of these crimes”¹⁸.

Recommendation 38/2006 by the CNDH which is directed at the Federal Secretary of Public Security (SSP); the government of the *Estado de México* and the National Immigration Institute, urges said institutions to begin and/ or continue the necessary judicial and administrative proceedings to punish those public servants involved in the police operation¹⁹. Although the final recommendations are simple and general, it rightly makes specific recommendations in relation to the killings of Alexis Benhumea and Javier Cortés. However, it does not refer specifically to the situation of the abused women, either national or foreign. Neither does it determine clearly that the women were victims of torture or ill-treatment despite evidence of the rape and sexual abuse they were subjected to.

II.4. Authorities' responses to the abuses: The public discourse used by the authorities and their inaction as factors of violence

When victims, their families and legal advisers in addition to human rights organizations made victims' testimonies public, the authorities in charge of the police operation categorically denied the abuses and did not show any willingness to investigate the allegations. The authorities said the allegations were an attempt to discredit the police operation, which, from their point of view, had been a success. The government officials systematically sought to hide, minimize and deny the sexual violence committed by police officers against the detained women.

Several public servants of the Mexican government made declarations, including: “*In the buses transporting the detainees nothing at all happened,*”²⁰ as declared the Commissioner of the State Security Agency. The governor of *Estado de México* stated: “*The issue of the people allegedly raped ...there is no formal claim made, nobody has filed a claim, none of the women has filed a formal complaint for rape before the judicial authority*”²¹. The federal Public Security Ministry's Undersecretary for Prevention and Citizen Participation said, “*It is not credible and we cannot accept that there were tumultuous rapes at the time of detention*”²². Only the social pressure resulting from these abuses compelled authorities to begin investigations. However, the investigations began late, with the state authorities

¹⁸ Ibid, par. 15.

¹⁹ Ibid, Part “V. Recomendaciones”.

²⁰ *La Jornada*, “Nada pasó en el traslado, dice Wilfredo Robledo”, see also: *El Universal*, “Confusión en Edomex por caso Atenco”, both published 26 May 2006.

²¹ *Reforma*, “Desacreditan video de ONG sobre policías”, see also: *Diario Monitor*, “Guerra de verdades ante las denuncias de violaciones”, both published on 12 May 2006 (See Appendix 2, Notas de Prensa).

²² *La Jornada*, “En Atenco no hubo violaciones ni abusos deshonestos. Yunes”, 12 May 2006 (See Appendix 2, Notas de Prensa).

beginning on 8 May and the federal authorities on 15 May. This despite the legislative framework establishing that a rape must be pursued at the authorities' initiative and that it is considered aggravated when committed by a public servant.

These public servants also contradicted what has been decided by the Mexican Supreme Court of the Nation. According to the Supreme Court, for sexual crimes, victims' accusations have increased importance because these types of crimes are typically committed without the presence of witnesses²³. Yet these resolutions are insufficient since the authorities continue using, as their primary proof of evidence, gynecological and psychological exams to determine the harm caused to the victims, which effectively means that these exams have to be performed on the women several times, leaving them feeling degraded and abused all over again and also downgrading their testimonies.

Furthermore, most of the medical exams carried out on victims had serious deficiencies. This is demonstrated in the report produced by the International Civil Commission for Observation of Human Rights (CCIODH), which investigated the events in San Salvador Atenco. The report states, "*The medical report[s] carried out at the prison relating to the abuses suffered by women are clearly deficient, and [...] the first medical notes registered in the prison were dated 24 May 2006. This was corroborated by the observers that entered the Penitentiary Center in Santiaguito on 2 June... In the CNDH's preliminary report dated 22 May they confirm that there are 'irregularities in the elaboration of such reports'*"²⁴.

The report further indicates, "*From the beginning the women asked to file formal complaints and to be treated by medical personnel that they trusted. These complaints were not registered until the Special Prosecutor's Office for Violent Crimes against Women got to the prison on 12 May. Five imprisoned women signed formal claims of aggression and sexual abuse, and it was not until a week later that they were actually examined by the doctor from the Public Prosecutor's office. The doctor said that they were perfectly fine*"²⁵.

This case of sexual violence against women led to a public discourse by government officials that contradicted current legislation and legal norms at the state and federal levels. Authorities did not initiate investigations into victims' complaints, as they should have; victims' reports were not included as evidence; and the government officials quoted (and others) applied discriminatory criteria to the women who were raped and justified impunity following the events.

To date, there is no clear response to the critiques and recommendations made to the Mexican government by national and international organizations. For example, the Supreme Court, which has an exceptional facility in acting according to the Constitution²⁶,

²³ Isolated thesis of the SCJN, see below under section *The crime of rape* for further details.

²⁴ CCIODH, Op. Cit., p. 80.

²⁵ CCIODH, Op. Cit., p. 81.

²⁶ *Reforma*, "Impulsa Góngora caso Atenco", 1 September 2006.

undertook a discussion to assess if it could take on the investigation of the abuses carried out in San Salvador Atenco; a discussion that has not produced a resolution to date. Additionally, contradicting a political agreement reached in 2002 between the government and the FPDT members, the government of the *Estado de México* reactivated 300 criminal investigations that had been put on hold against diverse members of the FPDT²⁷. There is as yet, no criminal investigation on the rape and sexual abuse charges by the Special Prosecutor's Office. All this inaction and lack of political will have resulted in the dearth of clear and tangible actions by authorities to carry out the necessary impartial and thorough investigations into the human rights violations.

II.5. Sexualization of torture and victimization of women in San Salvador Atenco

From our point of view, the detained women affected in the police operation were victimized in multiple ways, not only because of the conditions in which the police intervention was carried out (as described above), but also because of the sexual abuse and violence they experienced while in police custody, solely because they were women.

The police forces that participated in this event intentionally inflicted serious physical and psychological pain and suffering on the detainees. They also threatened the victims with death and more serious harm. Sexual violence was used to intimidate and coerce the detainees, using discriminatory acts just because they were women.

The renowned defender of women's human rights in Mexico, Lydia Cacho²⁸, said in relation to the police operation in San Salvador Atenco that the rapes committed against women detainees “*put the victims in a totally defenseless situation. During and after the torture, a victim goes through feelings of fear and panic, anxiety and physical pain. The last thing a person wants at the time is for an unknown person – such as the prison doctor – to examine her genitals, to touch or hurt her. The revictimization of victims of sexual violence has been sufficiently documented and because of this, the existing specialized agencies for sexual crimes in Mexico have known for several years about the secondary trauma and the post traumatic stress syndrome, that paralyzes victims and overwhelms them with the terror of once again being victims of their captors and their [captors'] allies, such as the public prosecutors*”²⁹.

From our point of view, the invasion and use of women's bodies, while those women are

²⁷ *La Jornada*, “Reactivan averiguaciones previas contra líderes de Atenco”, 16 September 2006.

²⁸ Lydia Cacho was recently a victim of arbitrary detention by police officers who threatened her with rape during the time she was in their custody. This was apparently a reprisal to one of her publications where she denounced publicly a pedophilia network operating in Mexico with the support of several high level government officials in the state of Puebla, including the governor himself. She is also Director of a women's crisis center in Cancún, state of Quintana Roo.

²⁹ Cacho, Lydia, “La violencia de Estado contra las mujeres,” *La Jornada*, 18 May 2006.

under the physical and psychological control of male State authorities, constitutes gender discrimination and an act of torture. The authorities fully intended to denigrate and cause pain both to the female detainees and to their gender as a whole, and to the communities they represented or supported in the conflict. The deliberate and disproportionate use of force for repression and the use of torture and/or ill-treatment, as expressed in the sexual violence against women, justified legally by the need to reestablish order and social peace, implies a breakdown of the democratic rule of law, which is meant to honor human rights.

We believe these acts by State agents respond to what is described by the UN Special Rapporteur on Violence against Women when she said that: “***The most particularized element in custodial violence against women is the sexualization of torture. Although the sexual anatomy of men as well as women is targeted in the physical stages of torture, rape and the threat of rape, as well as other forms of sexual violence... are perpetrated more consistently against women detainees***”³⁰. Also the International Criminal Tribunal for Rwanda determined in the case *Prosecutor v Akayesu* “[l]ike torture, rape is a violation of personal dignity, and rape in fact constitutes torture when inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”³¹. The International Criminal Tribunal for the former Yugoslavia established that “*Sexual violence necessarily gives rise to severe pain or suffering, whether physical or mental, and in this way justifies its characterization as an act of torture*”³². Therefore, we believe that the abuse of authority by police officers, in particular the sexual abuse and rape of women, can be classified as torture according to article 1 of the CAT.

In *Estado de México* the crime of torture is described by the Law to Prevent and Punish Torture³³, that clearly establishes that when this crime has allegedly been carried out, the relevant authorities will investigate at their own initiative and they will not be able to use emergency situations, internal political instability or another emergency as a justification for not investigating the crime. Aside from this, the criminal code for *Estado de México* establishes that the crime of rape is considered a felony and must be investigated by the authorities. Therefore, the mere suspicion of or signs of sexual violence against any person must be sufficient to initiate a throughout investigation.

Although the crime of rape must be persecuted at the government's initiative³⁴, in the case of San Salvador Atenco relevant authorities did not want to begin the respective criminal investigations. On the contrary, when the allegations were made public, authorities discredited both victims' statements and the evidence presented to the media by victims

³⁰ UN, Radhika Coomaraswamy, Special Rapporteur on Violence Against Women, report E/CN.4/1998/54, 26 January 1998, UN Commission on Human Rights, 54th period of sessions, II Custodial violence against women, par. 130. Our emphasis.

³¹ Case no. ICTR-96-4-T (1 June 2001).

³² *Prosecutor v. Kunarac*, Case No. IT-96-23/1A (12 June 2002).

³³ At the federal level there is a Federal Law to Prevent and Punish Torture, which is applicable to acts carried out by federal officials.

³⁴ Article 273 of Criminal Code for the *Estado de México*, Articles 265 and 266 bis of the Federal Criminal Code.

and human rights organizations.

Our experience working on similar cases shows us that in Mexico sexual violence against women committed by police officers during police operations goes unpunished (see section III). The institutions meant to enforce the law continue the discrimination and violence against women, thereby legitimizing the torture as sexual violence committed against female detainees.

In the case of the four foreign women, their migratory status in the country put them in an even worse situation because they were illegally expelled from Mexico. They did not have the opportunity to file complaints against their abusers before the Mexican authorities. Some of them made public declarations in the international press from their country of origin, affirming that they would initiate legal proceedings, but their situation complicates the initiation of such proceedings against those suspected of abusing them.

The case of San Salvador Atenco is paradigmatic because it is a clear example of the kind of abuse that women have been subjected to, thus putting them in a situation of vulnerability and risk. Despite what was recommended by CEDAW's General Comment 19³⁵ and by the Convention of Belém do Pará in its article 8h, the Mexican government has not made public and accessible sufficient information regarding violence against women. As a result, it is difficult to prove, using official data, that this kind of violence against women during police operations is systematic. The absence of official data also allows authorities to deny the existence of this problem or to minimize it.

Nevertheless, studies carried out by some NGOs in Mexico give some indication about these abuses. For example, in 2004 the Christian's Action for the Abolition of Torture - Mexico (ACAT) conducted a study in a female prison, taking a sample of 79 women accused of felonies. The study sought to find out whether there were any irregularities suffered by women during their detention and whether they had suffered torture and, if so, what kind³⁶. ACAT was able to disclose a series of irregularities in due process, such as lack of arrest warrants, lack of an appropriate defense, and no information about the accusation against them, among others. With regard to their physical and psychological mistreatment, ACAT found that most women reported physical mistreatment during their detention (64%) and also physical aggression while in officials' custody (51%). Seventy-eight percent of them suffered verbal aggression, threats of torture and/or death threats against them or their family. Additionally, 52% of the women were beaten in different parts of their bodies. These are just some of the abuses that ACAT's study disclosed, but without reliable official data, it is difficult to be sure about the kind of abuse carried out by State agents.

There are other cases that we consider problematic, which demonstrate the regular and systematic way in which police and security forces exert sexual violence against detained women. Below we describe three of those paradigmatic cases.

³⁵ CEDAW, Op. cit., par. 24 c.

³⁶ ACAT-México, "Diagnóstico de la Situación de Mujeres en Cárceles," 2004. ACAT will continue this study in August 2006. See Appendix 3 for the current version.

III. OTHER CASES OF ABUSES AGAINST WOMEN BY STATE AGENTS

National and international NGOs have documented similar cases of violence against women that we consider important because they demonstrate the systematic violence and discrimination against women by Mexican security forces.

III.1. European Union – Latin America and the Caribbean Summit, Guadalajara, 2004

The practice of repressive and costly police operations have led to situations such as the one in May 2004, when the Third EU-Latin America and the Caribbean Summit took place in Guadalajara, Jalisco, Mexico. On the basis of reestablishing order and social peace, the municipal government, with the consent of the federal government, used the state police forces to conduct a raid against young anti-globalization activists demonstrating peacefully on 28 May 2004. Testimonies demonstrate that apart from detaining women and men arbitrarily, police officers forced women to get naked and to squat repeatedly. The testimony of one of the young women detained during this operation says: *“They touched me, they called me ‘bitch, asshole, whore’ [...] one of them told me: ‘since I can’t beat my woman then I am going to beat you’ and then he laughed. They started to touch me and to say things like, ‘I’m sure you taste yummy, tomorrow morning you will be wet, but in blood’”*³⁷. To date, none of the members of the security forces involved in this event has been punished for the abuses committed.

III.2. Police Operations in Mexico City: The Case of Nadia Ernestina Zepeda Molina

Nadia was detained arbitrarily on 23 January 2003, when she was 18 years old, together with her boyfriend and a mutual friend. The detention was carried out by more than 20 masked police officers, members of the former Sagittarius Group (*Grupo Sagitario*) of the Mexico City Public Security Ministry.

During their detention the three were hit, and Nadia was sexually abused and raped by police aboard the truck in which she was being transported to the Public Security offices (the truck did not have identification). She was accused of selling cocaine based on evidence falsified by the same police officers. The federal Public Security Ministry remanded Nadia and after a process plagued by irregularities, she was sentenced to five years in prison. Nadia recognized the police who raped her and Center Prodh took over her defense in 2004, filing two accusations against those responsible, one before the Special Prosecutor for Sexual Crimes (*Fiscalía Especial de Delitos Sexuales*) and the other before the Special Prosecutor for Crimes Committed by Public Servants (*Fiscalía Especial de Delitos Cometidos por Servidores Públicos*). Nevertheless, Nadia's rapists go unpunished. Nadia was freed on 25 August 2005, but only because the presiding authority bowed to the

³⁷ Testimony documented independently in the documentary “Guadalajara-mayo-2004.”

pressure of family members, Center Prodh, and national and international human rights organizations, releasing her on bail before the trial. Nevertheless, Nadia remains a criminal in the eyes of the authorities, because the charges against her for possession and trafficking in drugs have not been revoked.

III.3. Members of the military protected by military jurisdiction: The Case of Valentina Rosendo Cantú

Valentina, an indigenous Tlapaneca woman, was washing clothes in a creek on 16 February 2002 when eight soldiers approached her, accompanied by a civilian that they held tied up. Two of the soldiers approached Valentina and the others surrounded her, interrogating her and asking her for information she did not know. Soon, one of the military men pointed at her with his weapon and hit her in the stomach with it; as a result of the blow she fell face up onto some rocks, fainting for a few minutes. Upon regaining consciousness, she was again interrogated by the men. Two of the military men then scratched her face violently, took off the skirt she wore and laid her down on the ground. One of them opened her legs, lowered his pants and raped her; when he was finished the other man did the same while the other six accomplices continued to surround Valentina, watching. Valentina, with the assistance of Center Prodh, filed a complaint accusing the men of rape. However, after a period of paperwork by the civil authorities, Valentina's file was placed under military jurisdiction.

Various human rights groups have recommended to the Mexican government that violations of human rights by members of the military are best not investigated by the military because the investigations lack the objectivity and independence necessary for the appropriate administration of justice, thus fostering impunity³⁸. The Inter-American Commission on Human Rights (IACHR) is currently deciding whether to consider the case.

These and other cases have not gone unnoticed by the international and regional bodies charged with investigating alleged human rights violations. In the country reports and in various annual reports the IACHR has examined the human rights status of women in ten countries, among them Mexico. It has made both general and specific observations and recommendations, including the recognition of sexual abuse and rape by police as torture: *"...the abuse and rape of women in custody of the State, police or military, [is] used as a form of torture. The Commission considers these acts torture because they represent a brutal expression of discrimination for the victims as women... the rapes constitute not only inhumane treatment under Article 5 of the [American] Convention by attacking the physical, psychological and moral integrity of the women, but also a form of torture according to Article 5 (2) of the Convention"*³⁹. Similarly, the IACHR, in its report on the

³⁸ Report by the Special Rapporteur against Torture, Sir Nigel S. Rodley, presented in accordance with the resolution 1997/38 of the Human Rights Commission, ADICION, Visit by the Special Rapporteur to Mexico, E/CN.4/1998/38/Add.2, 14 January 1998, par. 79.

³⁹ Badilla, Ana Elena and Torres Isabel. *"El Sistema Interamericano de Protección a los derechos humanos de las mujeres."* Inter-American Human Rights Institute, San José, Costa Rica, 2004.

case of Ana, Beatriz y Celia González vs Mexico, the IACHR considered the crimes committed against the victims to be, among other things, a use of sexual violence as a method of torture. The case addressed the rape of the three indigenous Tzeltal women by members of the military; the State was denounced for illegal detention, rape and torture⁴⁰.

In addition, in 1998 when the IACHR examined the human rights status of women in Mexico, it recognized some positive aspects among the government's reported actions, such as the creation of assistance centers for victims or specialized agencies to investigate sexual crimes, as well as making sexual harassment illegal. At the same time the IACHR was concerned about the many reports by human rights organizations of sexual violence committed by or with the consent of State agents, especially while the women were detained. Since then the IACHR has also made known its concern about the fact that women are hesitant to file complaints because they fear retaliations against themselves or their families⁴¹.

IV. EXISTING DOMESTIC LEGISLATIVE FRAMEWORK GUARANTEEING WOMEN'S ACCESS TO JUSTICE FOLLOWING POLICE VIOLENCE

The Constitution prohibits discrimination against women. Article 1 of the Constitution clearly prohibits discrimination because of gender, and any other act that harms the human dignity of a person, with the intent to annul or impair the rights or freedoms of others. Equality is the formal principle upon which the State hopes to guarantee every man and woman's legal security⁴² and access to justice through impartial and efficient courts (federal or state)⁴³.

At the federal level, there have been other legislative advances to prevent and end discrimination against women, such as the General Law to Prevent and Eradicate Discrimination (*Ley General para prevenir y erradicar la discriminación*), the establishment of the National Council (*Consejo Nacional*), and the policies instigated by the National Women's Institute on the topic of gender violence, especially domestic abuse, among others. However, legislative advances in secondary legislation (regulations, etc.) and in particular the criminal codes of various states have not been as quick. In addition, the difficulty of enforcing laws on equality between men and women is evident in the problems in accessing criminal justice for women. This is caused by structural weaknesses in the justice system, such as the discriminatory criteria used to apply the law.

⁴⁰ CIDH, Report N° 53/01, Case 11.565, Ana, Beatriz y Celia Gonzalez Pérez, Mexico, 4 April 2001.

⁴¹ IACHR, "Report on the situation of human rights in Mexico", OEA/Ser.L/V/II.100, Doc. 7 rev. 1, September 24, 1998, par. 622.

⁴² Political Constitution of the United Mexican States, Article 16.

⁴³ Ibid, Article 17.

This is demonstrated in the case of San Salvador Atenco, in which diverse federal and local legislation, the lack of independence of the Public Prosecutor (*Ministerio Público*), the broad competences given to the police forces during these type of operations, and the deficient and discriminatory legislation addressing the topic, create conditions that make access to justice difficult for women and perpetuate the impunity of torture or ill-treatment in the form of sexual violence committed by State agents.

Below each of these areas is explained.

IV. 1. Ways in which federalism affects the San Salvador Atenco case

Because the violence committed against women in San Salvador Atenco took place in a municipality of *Estado de México*, but with the participation of municipal, state and federal security forces, it is important to give a brief explanation of the Mexican Constitution and how that Constitution affects the reporting of abuses such as those in San Salvador Atenco.

Mexico is a republic, representative, democratic and federal, composed of free and sovereign states with regard to their internal governance, but united by a federation established according to the Constitution.

As a result of the above, the country's structure is divided in three levels of power: municipal, state and federal governments. These are then divided into executive, legislative and judicial branches⁴⁴. Municipal governments maintain a division of power similar to state and federal governments, though municipalities do not have legislative and judicial branches, but rather a body that sometimes plays the role of municipal council and sometimes that of municipal judge.

Because both state and federal security agents participated in the abuses committed in San Salvador Atenco, and because crimes such as torture or ill-treatment were committed, which fall also under federal jurisdiction, there should be an option for federal rather than state authorities to take on the investigation. In the end this decision depends mainly on the political will of both sets of authorities. Past experiences have shown us that when the state authorities are in charge of investigating abuses by agents of their own agency, normally the investigation lacks impartiality and tends to treat victims unfairly.

IV.1.1. The lack of independence of the Public Prosecutor

In accordance with the Mexican Constitution, the Public Prosecutor is the authority in charge of pursuing crimes and those suspected of having committed them, requesting arrest warrants against those accused, finding and presenting evidence proving the guilt of those accused, making sure the trial is carried out regularly, quickly and expeditiously, and requesting sentences. This is true at both the federal level (for federal crimes) and the state level (for common crimes or misdemeanors). This is a monopoly by the Public Prosecutor

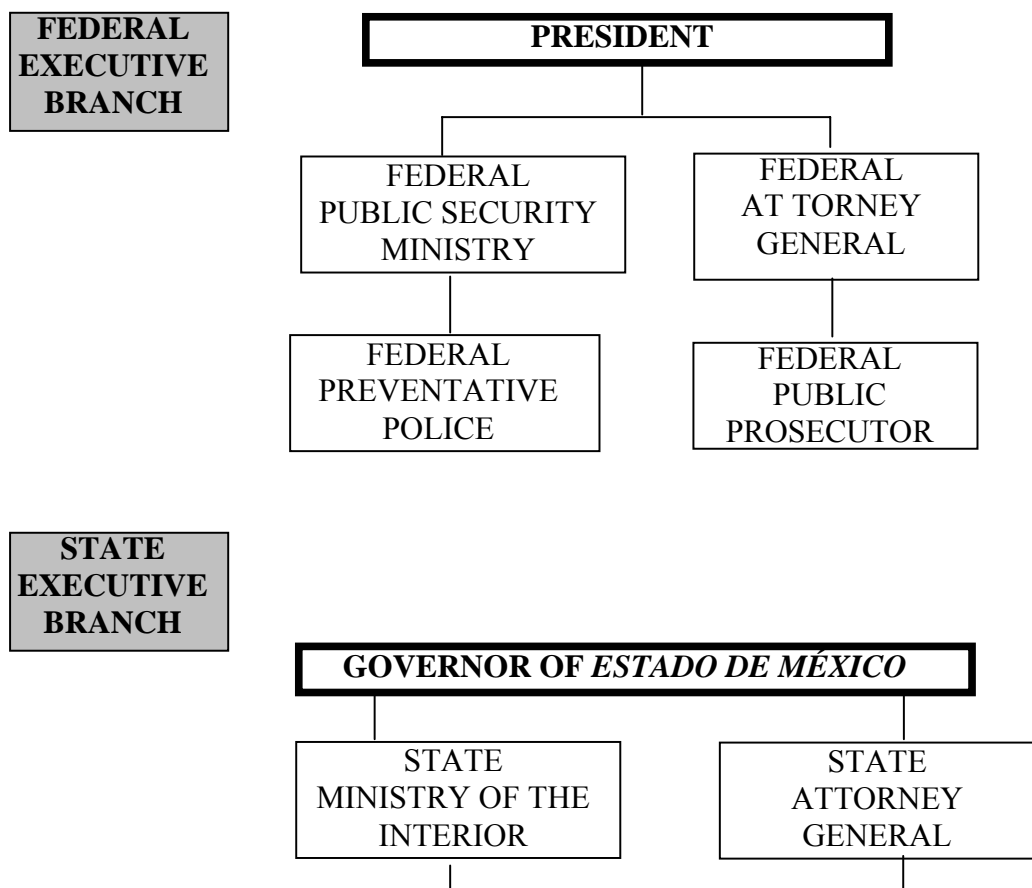
⁴⁴ Ibid, Article 116.

of the penal process. Victims can only contribute to the process by “assisting” the Public Prosecutor, but this participation is very limited.

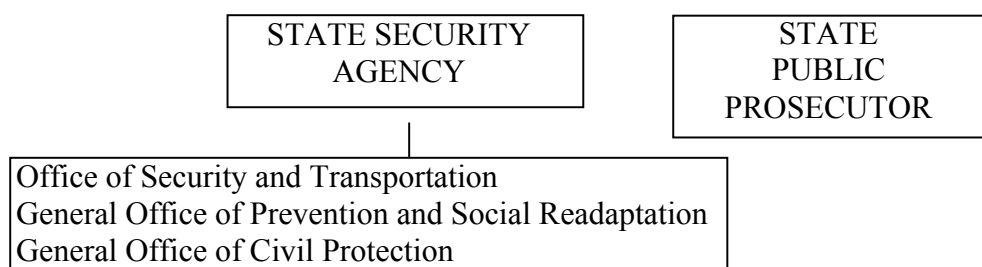
In the organizational structure the Public Prosecutor is part of the executive branch: the Federal Attorney General (*Procurador General de la República*) at the federal level and the Attorney General for State Justice (*Procurador de Justicia del Estado*) at the state level. Both individuals are named by the head of the respective (federal or state) executive branch⁴⁵, with ratification by the respective legislative branch.

In the same organizational structure, the public security agencies fall within the executive branch: the Public Security Ministry at the federal level and the State Security Agency (*Agencia de Seguridad Estatal*) at the state level. Within the same executive branches are the criminal investigators and police forces. Both institutions are subordinate to the president or to the governor of *Estado de México*. Graphically the organizational structure looks like this:

ORGANIZATIONAL STRUCTURE



⁴⁵ Ibid, Article 102, Section A, and Article 83 of the Political Constitution of the *Estado de México*.



The organizational structure and the political reality of Mexico, with a clear culture of centralization, in practical terms prevent the Attorney General from acting independently and autonomously from the executive. For example, this is demonstrated when the governor of *Estado de México* admits that he himself instructed that order to be reestablished in San Salvador Atenco. He also made statements characterizing the detained women as part of radical groups capable of fabricating rape allegations against the police, claiming that it was a tactic used by such groups⁴⁶.

Despite the governor's making those statements, in reality there is no legal way for him to be accused of anything. First, because the governor has judicial immunity and a political judgment would need to be made against him in order to be able to strip him of that immunity (part of a process called *desafuero*, similar to impeachment)⁴⁷. Second, because in order to be subjected an official to a judicial process while in office the alleged crimes must be considered serious crimes or felonies that threaten the security of the State, as agreed to by an absolute majority of the deputies in the legislature. In the recent history of Mexico there has only been one case of *desafuero*.

The arbitrariness with which the governor could order a security operation that was questionable in terms of legality and human rights, added to the aforementioned lack of independence of the Public Prosecutor, created a setting of total impunity for the events at San Salvador Atenco. This impunity includes the sexual torture inflicted on the women detained during the police operation, aggravated by the public statements made by authorities minimizing and denying the sexual violence.

IV.1.2. Different legal routes and their limitations

In addition to the political limitations, there are also legal limitations to accessing justice. The need for a complete reform of the criminal justice system in Mexico is more and more urgent as situations such as the rape of women by police agents demonstrates the inability of current legal resources and procedures to protect the women. In addition, there is another obstacle: the inability of institutions to guarantee access to justice.

⁴⁶ Brooks, David. "Yo ordené el operativo en Atenco: Peña Nieto en EU." *La Jornada*. Mexico. 16 June 2006. Political Section. <http://www.jornada.unam.mx/2006/06/16/018n1pol.php>.

⁴⁷ Political Constitution of *Estado de México*, Articles 131 and 132.

There are essentially two legal methods to investigate the participation of members of the federal and state police forces: administrative and penal.

IV.1.2.1. The administrative route

The administrative investigation is carried out before the Honor and Justice Commission (*Comisión de Honor y Justicia*), part of the Public Security Ministry, which monitors the Federal Preventative Police (*Policía Federal Preventiva*). The Commission is made up of ten members from diverse administrative areas and has jurisdiction over infractions by police officers; punishments range from reprimands to dismissal from the job.

In *Estado de México*, the Inspector General (*Inspección General*) is the body that deals with complaints against agents of the State Security Agency (*Agencia Estatal de Seguridad*). Like the federal security agency, the State Security Agency has to note and investigate complaints against State agents and, if they determine evidence of some crime, to assign the case to the appropriate authorities. One of the Inspector General's duties is to be the prosecutor for the Honor and Justice Commission; however, we were unable to prove the existence of the Commission within the organizational structure of the state's government⁴⁸.

If this appears to be an alternative route to justice, in reality there are serious limitations to an administrative investigation resulting in formal accusations. This is because the decision to initiate the investigation rests on higher-ranking security officers. We see structural limitations of formal legal routes to justice and the lack of political will among authorities when we look at statements made by the commissioner of the State Security Agency, who claimed there were no rapes of women and that the police operation was “clean”⁴⁹. Furthermore, the punishments corresponding to these administrative failures include only reprimands or temporary suspension of duties, punishments far from those merited by crimes like torture or rape.

IV.1.2.2. The penal route

The second option for accusing those who have raped, sexually abused or tortured women is to use the penal route. It is important to remember that the Public Prosecutor is in charge of carrying out the investigation; the Public Prosecutor is subordinate within the executive branch, creating limitations and obstacles for an impartial and autonomous investigation.

The Penal Code is the legislation that describes what behavior constitutes a crime and the respective sentences; this legislation may be at the federal or state level, though they are

⁴⁸ Internal Regulations of the State Security Agency, Article 12.

⁴⁹ *La Jornada*, “En Atenco no hubo violaciones sino abusos deshonestos: Yunes,” op. cit.; *El Universal*, “Considera el SSP “muy limpio” el operativo en Atenco”, 5 May 2006; *Noticieros Televisa*, “Fue limpio el operativo en Atenco: Peña Nieto” 4 May 2006; *El Sol de Toluca*, “Quiere ley para que no se ataque a la policía,” 6 May 2006; and *La Jornada*: “Nada pasó en el traslado: Wilfrido Robledo,” 26 May 2006.

similar. Below we analyze the possible crimes for which the criminal justice system may investigate and punish the crimes committed.

IV.1.2.2.1. Crime of abuse of authority

The crime of abuse of authority⁵⁰ exists: a) when the accused is any public servant b) who in the course of his or her duties commits violence against a person, without a legitimate cause, or who unfairly humiliates or insults a person⁵¹. This crime must be investigated at the government's initiative.

The Supreme Court has stated that public servants who are police officers may not shoot nor commit illegal violence against an individual they are going to detain, even if the suspect resists detention. In accordance with Article 19 of the Mexican Constitution, any mistreatment of a person in detention is considered an abuse that must be addressed by the law and the authorities⁵².

However, this crime is seldom pursued by the authorities. For example, the Attorney General of *Estado de México* presented statistics for the year 2005 that indicate that there were 662 investigations into abuse of authority involving 1,067 public servants; compare this to a crime like robbery, for which 65,508 complaints were made⁵³. From the federal Attorney General we learn that there were 1,319 investigations initiated against federal public servants, a number not broken down according to the crimes, and very low if compared with “crimes against health”, for which there were 38,903⁵⁴. However, on the web page that we consulted there were no figures indicating how many of these inquiries resulted in trials, nor, when there were trials, the final verdicts.

In the case of San Salvador Atenco, there are currently 21 criminal investigations initiated against low-ranking officers (out of more than 3,500 who participated in the operation), for the crime of abuse of authority (accusations that derived from the preliminary report produced by the CNDH on the events in San Salvador Atenco); the criminal proceedings were initiated by the Attorney General of the *Estado de México*. However, our experience

⁵⁰ Federal Penal Code, Articles 215 and 136 of the Penal Code of *Estado de México*.

⁵¹ SCJN, “*Abuso de autoridad, cuando no se configura el delito.*” Séptima Época. Instancia: Primera Sala. Fuente: Semanario Judicial de la Federación. 145-150. Segunda Parte. Página 9. Tesis Aislada. Materia(s): Penal.

⁵² SCJN, “*Abuso de autoridad, policías.*” Sexta Época, Instancia: Primera Sala, Fuente: Semanario Judicial de la Federación. Segunda Parte LXII. Página 9. Tesis Aislada. Materia(s) Penal.

⁵³ The figures above can be found on the web page of the Attorney General of *Estado de México*, <http://www.edomexico.gob.mx/pgjem/default.htm>.

⁵⁴ These figures can be found on the web page of the federal Attorney General, <http://www.pgr.gob.mx/index.asp>.

tells us that it is common practice for Mexican authorities to charge only low ranking officers to avoid accusations against higher-ranking officers.

One important risk involved in only probing the crime of abuse of authority is minimizing the importance of investigating more serious crimes reported by women, such as torture, sexual abuse and rape. The Public Prosecutor has broad discretion to characterize the reported crimes and to pursue them (or not). In addition, the victims are allowed to participate very little in their own cases, which results in victims being denied full access to justice, leaving them unable to demand reparations, the implementation of measures to ensure the crimes are not repeated, or punishment for those responsible.

IV.1.2.2.2. The crime of rape

The elimination of discriminatory criteria applied to rape, as a violation of the right to freedom and sexual security, has advanced in recent decades. Both the Federal Penal Code and the Code of *Estado de México* establish that this crime must be investigated at the government's initiative.

A person commits rape, by means of physical or moral violence, by penetrating someone of either sex, whether it includes the insertion of the penis or another instrument into the victim's vagina, anus or mouth, regardless of the victim's sex. In both Codes the crime of rape is aggravated if it is committed by a public servant and/or if two or more persons are involved. It is important to note that there is an important difference in the penalties ascribed to the Codes. According to federal legislation, rape is sanctioned by imprisonment of a period from eight to fourteen years. In the case of the *Estado de México's* legislation, it is sanctioned by an imprisonment period ranging from ten to fifteen years. In the particular case of San Salvador Atenco, because of the involvement of public servants, the length of imprisonment may increase, from fourteen to twenty one years under federal legislation and from thirty five to sixty years under the State legislation⁵⁵.

In both the federal and state codes the crime of rape is considered aggravated if it is committed by a public servant or if it is committed by two or more people. However, as demonstrated before, the legislative advances do not necessarily translate to real access to justice. Furthermore, in the case of crimes against the freedom and sexual security of women, prejudices prevail that prevent justice from being carried out. This is demonstrated in the public declarations by people participating in and leading the investigation of these crimes, who decided to discredit *a priori* the reports by women who dared to make them public.

However, the legislation does not allow for the assignation of collective responsibility or the responsibility of superiors who order or allow their subordinates to participate in the crime; instead, responsibility is assigned only to individuals. In the case of women from San Salvador Atenco, the fact that more than 3,500 police officers participated, and that the

⁵⁵ See articles 273 and 274 par. III of the "*Código Penal del Estado de México*" and articles 265 par. III and 266 bis par. III.

women had their faces covered during their detentions and attacks, makes it extremely difficult to identify those individuals responsible.

With regard to assigning responsibility to the operation's highest-ranking officer, hypothetically they could be accused of intellectual authorship. However, the manner in which these operations are carried out – informally and without written orders made public – makes it impossible to prove their responsibility. In addition, it must be noted that superior officers in charge of police who participate in any operation do not have responsibility except for those instructions they order be carried out. They do not have the responsibility to safeguard the integrity of the detained women; this responsibility falls onto the police officers themselves. This allows the higher-ranking officers to easily avoid accepting responsibility for the events.

In the absence of norms allowing for the collective criminal responsibilities of the State and officers for rapes committed during operations, a culture of permissibility is created between police and the commanders of a police operation who attack or allow attacks on the physical and psychosexual integrity of women. In other words, there is a legal vacuum that makes it impossible to assign responsibility to police officers or their superiors for carrying out operations that discriminate against and mistreat women.

The norm of assigning blame to individuals must be changed because in cases like San Salvador Atenco the rapes are generally carried out in the midst of an operation in which no one police office is responsible for the situation; instead the other police officers and superiors participate either actively or passively (by omission). As a result, there is an urgent need to fix this situation, building protections that currently do not exist for women who are detained.

With regard to judicial practices, there is a double victimization of women because during the investigation a woman must prove the damage or harm caused by the rape by undergoing physical examinations so as to present the result to the authorities because her word is not sufficient. This despite the criterion established by the Supreme Court:

“VICTIM, VALUE OF HER WORD IN SEXUAL CRIMES. The statements of victims of sexual crimes have more importance because, generally, they are carried out in the absence of witnesses”⁵⁶.

Despite this, [victim's] statements are insufficient and victims are always subjected to gynecological and psychological examinations to determine the damage.

The judicial thesis number 123 by the Supreme Court states:

“*Sexual crimes, value of the victim* statements concerning sexual crimes, the word of the victim acquires a special relevance because this type of illicit crime is resistant to direct proof”⁵⁷.

⁵⁶ Registration Number 259294. Location: Sexta Época. Act: Primera Sala. fuente: Semanario Judicial de la Federación. Segunda Parte, XCVIII. Page: 68. Tesis Aislada. Materia(s): Penal.

⁵⁷ Registration Number 214364. Location: Octava Época. Act: Tribunales Colegiados de Circuito.

There are few ways to guarantee that the State takes responsibility and compensates women for harm, given the legislative omissions in the characterization of rape and the double victimization of women.

Regarding the statistical data on this type of crime, in the year 2005 the Attorney General of *Estado de México* received 2,401 complaints of rape and 2,041 reports of criminal acts⁵⁸. The federal Attorney General does not have data on crimes against psychosexual development.

According to the CNDH, there was “statutory rape” committed against the 26 women, an affirmation which is legally incorrect because in both the Federal Penal Code and the Code of *Estado de México*⁵⁹, a person commits “statutory rape” when, without any obvious signs of violence or coercion, he/she has an intercourse or introduces any element or instrument into the anus or vagina, other than the penis, of a minor of twelve years of age (or fifteen according to the Code of *Estado de México*), or of a person without the capacity to understand the meaning of the act, (because of the lack of ability to reason or because of illness, according to the Code of *Estado de México*) or, for any other grounds, could not resist the act. With reference to the documentation of the abuses, the CNDH points out that, on some occasions, it was not possible to compare the victims' testimonies with other forensic evidence, particularly clothing, because when the women entered the prison facilities the police agents “...took some of their clothing and others were forced to wash it...”. These abuses, according to the CNDH, were carried out with the aim to punish them personally and to intimidate them “...because of their alleged links with the demonstrators and members of the Front...”⁶⁰.

IV.1.2.2.3. The crime of torture, and cruel or degrading treatment

The last crime that may be applicable to this case is the crime of torture and ill-treatment. It is possible to accuse both the public servant who actually provokes physical and psychological pain, and also the person who knows about the crime and does not file a formal complaint.

In the case in question, the crime of torture is the one that has the best possibility to begin proceedings at the federal level, i.e. through the application of the questionnaire designed by the PGR, a questionnaire that is allegedly based on the principles of the Istanbul Protocol and is only valid under federal legislation. It should allow for an assessment of physical and psychological damage, although with limitations because its impartial

Fuente: Semanario Judicial de la Federación. XII, November de 1999. Page: 335. Tesis Aislada. Materia(s): Penal.

⁵⁸ See the web page of the Attorney General of *Estado de México*, <http://www.edomexico.gob.mx/pgjem/>.

⁵⁹ Article 266 of Código Penal Federal, par. III.

⁶⁰ CNDH, op. cit., Part 7 “Violación a la libertad sexual (abuso sexual y violación).”

implementation has been questioned due to the fact that it is applied by the same officers who are being examined. Both at the federal and state level, torture is sanctioned with three to twelve years' imprisonment, destitution from one's position and prohibition of governmental work in the future, in addition to a fine⁶¹.

In relation to the practice of torture during the police operation in San Salvador Atenco, the CNDH concluded in its recent recommendation that all the 207 persons detained and thus deprived of their liberty during the police operation were victims of torture and ill-treatment. The CNDH reached this conclusion after its representatives compared the testimonies of victims and in some cases, gave testimony themselves of the physical injuries of the victims and applied the Istanbul Protocol-based questionnaire to 26 people (11 women and 15 men). Amongst the abuses documented by the CNDH of the period during the arrest, the transportation from the place of arrest to the prison and in prison are: beatings of different parts of the body (produced by kicks, punches and pole beatings); death threats and rape; and the victims' being put one on top of another on the floor, regardless of age and gender⁶².

With regard to sexual violence, the CNDH, when quoting one of the cases of abuse, established that according to "*...the detention and the ways of torture to what [the woman victim] was submitted, it is possible to point out that there was the order to punish by using physical and gender violence*"⁶³. In another of the documented cases by the CNDH, it reached the conclusion that "*...the signs and symptoms...are characteristic of the Post-traumatic Disorder produced by stress...as a consequence of physical and sexual torture...*"⁶⁴. In some cases it is difficult to prove the physical effects of a crime because of the time elapsed and the lack of adequate medical attention to determine the seriousness of the detainees' wounds. Another option is to look at the psychological damage caused by the accused.

Nevertheless, as mentioned under abuse of authority, the crime of torture in Mexico is generally established without looking at the gender discrimination issue, such as in the case presented here.

As discussed above, there is a remaining obstacle, that of the individualization of criminal responsibility. Mexican legislation does not address the collective or institutional criminal responsibility of State agents with regard to human rights violations committed during police operations. We believe this creates a culture of permissibility among police officers and those in charge of coordinating police operations who attack or allow someone else to attack the physical and psychosexual integrity of women, resulting in impunity.

As a consequence, although this crime may be eligible for legal proceedings, one must also

⁶¹ Article 4 of the "*Ley Federal para Prevenir y Sancionar la Tortura*" and article 3 of the "*Ley para Prevenir y Sancionar la Tortura en el Estado de México*."

⁶² CNDH, op. cit. Part 2 "Trato Cruel, Inhumano y/o degradante" and part 6 "Tortura."

⁶³ Ibid part 6 "Tortura."

⁶⁴ Idem.

examine the characteristics of the police operations themselves, which make it difficult to place criminal responsibility on individuals. Also, due to the poor investigative methods within the Mexican administration system and the lack of impartiality within the system, it is difficult to prove if the human rights violations complied with an order given by higher-ranking officers, and if those who actually knew about the crimes did nothing.

In addition, it is important to point out that because of the similarities between torture and abuse of authority, the Mexican Supreme Court has indicated that, based on the principles of intellectual authorship and double jeopardy, it is not possible to try a public servant for both crimes⁶⁵.

As mentioned above, the Special Prosecutor's Office for Attention to Violent Crimes Committed against Women, was created on 16 February 2006. From our perspective, this new prosecutor's office would be the more appropriate choice to investigate the abuses carried out against women that we have presented in this report, because federal security forces participated in the police operation. Nevertheless it is still too early to determine the efficiency or inefficiency of this body.

Therefore, these two legal options, the administrative and the criminal, offer few opportunities for justice for the women abused during the police operations in San Salvador Atenco on 3 and 4 May 2006. Reasons originate in the legislation itself and range from the definition of the crimes to the legal vacuums that exist.

Also, there are limitations at the structural level, such as the lack of independence and autonomy of the bodies in charge of investigating the crimes. For this reason we consider what happened, and the lack of access to justice for the women, to be extremely serious, thus constituting a human rights violation. Therefore, we have reached the following conclusions and recommendations.

V. CURRENT SITUATION REGARDING ACCOUNTABILITY ISSUES

At time of writing, seven women remain imprisoned after being accused of attacking general transportation and communication lines and holding people hostage. These are considered serious crimes and thus these women cannot be released on bail. Their cases are currently under review, pending evidence presentation by state authorities. The four young foreigners who were illegally deported had also reported being sexually assaulted while they were detained. However, to date, we have no knowledge if they have filed a legal complaint or if legal proceedings have been initiated on their behalf.

⁶⁵ Novena Época, *Tribunales Colegiados de Circuito*, Fuente: *Semanario Judicial de la Federación y su Gaceta XII*, Thesis: XXIV.3 P. Isolated thesis, Criminal area. "Abuse of power and torture, excluding crime among them" (legislation from the state of Nayarit). *Tribunal Colegiado del vigésimo cuarto circuito. Amparo directo 339/99*. January 31, 2001. Unanimity of votes. Presenter: Víctor Jáuregui Quintero. Secretary: José Martín Morales Morales. April 2001, p. 1023.

Sixteen women filed sexual violation charges against the State, of which fourteen are being handled by Center Prodh. Center Prodh's legal defense team presented reports before the Special Prosecutor's Office for Violent Crimes Against Women (federal level) denouncing the physical, sexual and psychological damage the women suffered as a result of the police operation carried out in San Salvador Atenco. Meanwhile, the CNDH has filed 23 sexual abuse charges before the Attorney General's Office in *Estado de México* (state level). Of these 23 charges, only one police officer has been clearly identified by one of the victims, who was charged with the crime of "libidinous behavior", a crime which carries a prison penalty of one to four years and a small fine. The legal proceedings are underway and currently evidence is being presented. The remaining charges cannot proceed as the women are unable to identify their aggressors, since their faces were covered by their clothing.

These women have rejected any support offered by the Office of the Attorney General, owing to a complete lack of trust in the authorities. Instead, they have sought medical and psychological help from doctors they have confidence in. Some have reported emotional disturbances and vaginal infections as a result of the violations.

VI. CONCLUSIONS AND RECOMMENDATIONS

As a result we reached the following conclusions and recommendations:

V.1. Conclusions

1. The women detained during the police operation in San Salvador Atenco on 3 and 4 May 2006, were victims of physical and psychological violence. According to the CNDH, these actions were carried out according to orders, which contradicted the relevant national and international legislations and the principles of absolute need, reasonableness and proportionality.
2. The women were victims of violations of due process, arbitrary detentions, sexual abuse and rape, the latter two considered as a method of torture and ill treatment. As a result, it can be said that the Mexican State has not complied with its international human rights obligations.
3. The legal framework in penal matters and public security policies at the municipal, state and federal levels allow for arbitrariness by police officers in charge of law enforcement, contrary to the State's human rights obligations with respect to actions that mainly affect women, who are placed in a situation of real vulnerability in these types of police operations.
4. The existing political conditions and available legal options are insufficient in allowing for accountability and punishment of State agents who commit

these types of abuses, whether overtly or covertly, as has been illustrated in this report.

5. The lack of accountability by Mexican authorities for these types of actions is a constant, allowing human rights violations such as those described in this report to go unpunished. Violence against women during police operations is systematic, as demonstrated by other examples of State violence and the IACHR's reports.

V. 2. Recommendations to the Mexican State

6. Implement necessary measures to guarantee reparations for the harm caused to the detained women, using the highest standards of protection obligated to the Mexican State to fully redress and rehabilitate these women. These reparations must include not only financial payments but also the implementation of those measures needed to correct the individual and collective emotional distress that the people, especially women, suffered in San Salvador Atenco.
7. Carry out a prompt and impartial investigation of systematic human rights violations committed during the police operations in San Salvador Atenco on 3 and 4 May 2006; guarantee the right to a fair trial to the 36 women who are currently subjected to criminal charges, and in absence of valid charges, order the immediate release of the seven women who are still imprisoned and absolve all of them.
8. Modify the legislative framework and the practices of law enforcement forces, and when it is proven that the police operations were indeed crimes committed against the life and physical and psychological integrity of women, ensure the investigation and punishment of those high ranking officers in charge of the police operations.
9. That the Special Prosecutor's Office for the Attention of Violent Crimes Committed against Women, part of the Federal General's Attorney Office, assume responsibility for the complete investigation into the abuses committed against women during the police operations carried out in San Salvador Atenco.
10. Report on the crime rates of police and military forces, both at the state and federal levels, of crimes against life and the physical and psychological integrity of women. In addition, the Mexican State must adopt preventive measures to end these practices, report on the programs and their follow-up and assessment as to the efficacy of these programs.

ANEXO 1¹ TESTIMONIOS

Testimonios de mujeres detenidas en operativo San Salvador Atenco²

Testimonio 2. *Patricia*, 19 años, estudiante

El 04 de mayo estaba en el centro de Atenco, fui con mi pareja para fotografiar y grabar lo que estaba pasando. Vio que de pronto llegaron los policías y aventaron petardos, bombas de gas lacrimógeno, la gente empieza a correr y nosotros nos fuimos a refugiarnos a una casa a lado de la Casa de Cultura, entramos como 4 o 5 personas, uno iba herido y los demás íbamos intoxicados por el gas. Yo tomé fotos de todo lo que veía. De pronto irrumpieron en la casa, tuvieron que derribar dos puertas y cuando nos vieron a mi y a mi pareja con las cámaras y la grabadora, se fueron en contra de nosotros y nos decían “con que ustedes son los chismositos, hijos de puta” nos empezaron a golpear con sus macanas y nos hincan boca abajo, a mi me hicieron tocamientos en los senos, me apretaban y me pellizcaban, luego nos ordenaron subir a una camioneta con las camisetas sobre nuestros rostros, en eso me bajaron mi pantalón junto con la pantaleta y me hicieron tocamientos, nos encimaron uno encima de otro, y yo quedé casi a mero abajo y sentía que me faltaba el aire y aún así me alcanzaron a golpear en las partes (señala sus piernas) que quedaban descubiertas. Luego nos ordenan sentarnos y yo seguía con la camiseta sobre mi rostro por lo que tenía al descubierto el brassier, me lo empezaron a jalar y me pellizcaban, ahí también sentí que me mordían los senos, nos gritaban que las viejas éramos unas pendejas, unas putas”, uno decía, “mira cuánta vieja, que rico!”. Cada vez que me tocaban, escuchaba que le decían a mi pareja “así te la coges cabrón?”. [...] El camino duró como cuatro horas, y en ese tiempo también sentí que un policía quería meter su mano en mis partes, pero no me dejé me moví todo lo que pude, y sólo sentí que desde atrás me empezó a patear en mis genitales. Escuchaba que mujeres extranjeras iban gritando “ya déjenme”, y a todas nos decían, “tú vas a ser mi puta para siempre” o “así le va a ir a tu mamá”. Cuando llegué al penal me di cuenta que a las más jóvenes les había ido peor, y que a las señoras las habían golpeado con más saña. A mi sólo me dieron medicamento para el dolor.

Testimonio 3. *Verónica*, edad 46 años

El día 03 de mayo fui detenida en Texcoco en donde me detuvieron y fui golpeada y abusada sexualmente en el trayecto al penal de Santiaguito Almoloya, en el camión donde me trajeron un elemento de la policía estatal de uniforme color negro con palabras antisonantes alzó mi blusa, y metió sus manos en mis pechos, caderas y vagina, diciendo (sic) que éramos (sic) unas putas, erras y que habíamos valido madres, decían que como no sabía nadie cuantos éramos nos iban a prender fuego y arrojarnos en el canal, nos golpeaban cada que no contestábamos, tomando fotos

1 Only available in Spanish.

2 Presentamos testimonios registrados de manera directa por las abogadas del Centro Prodh y otros difundidos por prensa y medios electrónicos. Algunos nombres son ficticios y otros son los verdaderos nombres de las víctimas tomados de los testimonios recabados de la prensa.

con los ojos cerrados, datos de nuestras direcciones, quitándonos celulares, dinero y anillos de oro, riendo entre ellos decían que ellos eran unos drogadictos con daño psicológico. Decían que ya habíamos llegado a nuestra casa de donde no saldríamos ni en 20 años. En la bajada hicieron valla y nos bajaron de los cabellos y todos al pasar nos golpeaban.

Testimonio 5. Italia Méndez, 27 años

Fui detenida en una casa particular en San Salvador Atenco, allanada por al Policía Federal Preventiva, me despojaron de todas mis pertenencias y dinero, me obligaron a hincarme de frente a la pared con las manos en la nuca, golpeaban mi cabeza con el tolete, me levantaron y frente a una cámara me cuestionaron mi filiación política, mi dirección, mi nombre y el nombre de mis familiares directos. Posteriormente fui sacada del domicilio y sentada en la banqueta, había mucha gente más alrededor mío, yo tenía cubierta la cabeza y cara con mi suéter, me golpearon en repetidas ocasiones en la cabeza con toletes y patadas en los glúteos y espalda, me provocaron una herida en la cabeza de seis centímetros. Instantes después me hicieron caminar por dos hileras de policías que escoltaban el autobús en el cual nos trasladarían, me subieron a golpes al autobús y adentro había una gran cantidad de personas esposadas y con la cabeza cubierta, apilados unos sobre otros, me colocaron encima de la pila y después me arrastraron hacia el asiento trasero, ahí un policía metió su mano dentro de mi blusa y desgarró mi brassier, enseguida metió su mano dentro del pantalón y desgarró mi calzón. Yo me encontraba boca abajo, con el rostro cubierto, bajaron mi pantalón hasta los tobillos y mi blusa hasta la cabeza, golpearon con fuerza mis glúteos, gritándome que me violarían y matarían, después un policía me gritó que le dijera “vaquero” y golpeó con más violencia mis glúteos, pero ahora con su tolete solo paró hasta que escuchó lo que pedía. Enseguida me penetró con sus dedos la vagina y apretó con fuerza mis senos, después pellizcó con mucha violencia mis pezones, invitó a otro policía a hacer lo mismo mientras seguían golpeándome, después invitaron a una tercera persona a la cual le llamaron jefe, este último me penetró con un objeto y amenazaron con violarme (coito), me pusieron a la altura del pene de uno de ellos y él se restregó en mis glúteos mientras los otros dos policías lo animaban a penetrarme con su pene, pero no lo hicieron, me golpearon en los senos en repetidas ocasiones y golpearon mi estómago mientras besaban mi boca, como yo me resistía, los golpes eran para que yo abriera la boca y el policía pudiera meter su lengua en mi boca. Viajé todo el trayecto desnuda encima de dos personas más y sobre mi espalda y cabeza viajó un policía sentado. Hasta que llegamos al penal me permitieron vestirme y fui bajada del camión. [...] PFP y Policía Estatal me desnudaron, violaron sexualmente y golpearon, y me obligaron a viajar desnuda por aproximadamente cuatro horas. Golpearon y abusaron de todas las personas que iban el camión.”

Testimonio 6. Fernanda, 45 años

Era día 03 de mayo, fui al mercado de Texcoco de compras y vi granaderos, pero aún así me metí. Al salir vi que ellos estaban muy agresivos con gente que llevaba flores y como como empezaban a correr e intenté correr, pero aventaron mucho gas lacrimógeno y correteaban con palos y piedras. Las mujeres se metieron a una casa y yo también me metí para salvarme, ya no sé qué pasó afuera, pero después de un rato entraron hombres golpeados y heridos de la cabeza. Fueron horas de angustia por tanto gas que metieron aventándolo a esa casa, y nos subimos a la azotea, estábamos rodeados de policías y granaderos y no podíamos bajar más o menos, eran como las 4.30 a 5.30, no sé exactamente la hora, vi que se empezaron a formar y pensamos que ya se iban, pero no, al caminar aventaron mucho gas y piedras hacia la azotea las mujeres, nos cubrimos en una barda atrás de ella. Cuando de pronto vimos a los policías y granaderos arriba y nos dijeron que ya

habíamos valido madre, siguieron aventándonos piedras y gas y después nos amontonaron uno arriba de otro y cortaron cartucho y siguieron golpeando más a los hombres, nos amenazaron con tirarnos de la azotea hacia abajo yo no se si aventaron a una persona, después nos bajaron a punta de golpes hacia su camión con la cabeza agachada, ya en el trayecto nos amenazaban con tirarnos al canal o llevarnos a un pastizal y prendernos fuego, en el camión nos quitaron nuestras pertenencias personales, como aretes, celulares, dinero, etc. Además nos seguían pegando y manoseando a todas las mujeres. A unas las violaron y se repartían las pertenencias de nosotros. Hasta llegar aquí en Santiaguito, no sabíamos a dónde nos llevaban, al llegar todavía nos golpeaban y jalaban los cabellos.

Testimonio 7. Valentina Palma Novoa, 30 años

Mi nombre es Valentina Palma Novoa, tengo 30 años, de los cuales los últimos once he vivido en México. Soy egresada de la Escuela Nacional de Antropología e Historia y actualmente curso el cuarto año de Realización cinematográfica en el Centro de Capacitación Cinematográfica. Tengo FM 3 de estudiante.

A continuación quisiera relatar a usted los acontecimientos de los que fui testigo durante los violentos incidentes ocurridos en el poblado de San Salvador Atenco el Jueves 4 de Mayo del 2006, los cuales terminaron con mi expulsión del país de manera injusta y arbitraria.

1.- El día miércoles 3 de Mayo, luego de ver las noticias en televisión y enterarme de la muerte de un niño de 14 años, mi condición de antropóloga y documentalista hizo que me conmoviera con el deceso de éste pequeño por lo cual decidí dirigirme a San Salvador Atenco a registrar cual era la situación real del poblado. Pasé allí la noche, registrando las guardias que la gente del pueblo había montado y realizando entrevistas en las mismas. Hacía frío, me arrime a las fogatas que la gente del pueblo había montado mientras seguía registrando imágenes. La luz del amanecer anunciaba un nuevo día: jueves 4 de Mayo. Han de haber sido como las 6 de la madrugada cuando las campanas de la iglesia de San Salvador Atenco comenzaron a sonar: tum tum tum tum, una y otra vez, mientras por el micrófono se vociferaba que la policía estaba sitiando el poblado. Las bicicletas iban de un lado a otro, la panadería de un costado de la iglesia ya había abierto sus puertas y la calidez del olor del pan recién horneado inundaba la calle junto con el ir y venir de los campesinos en bicicleta. El señor que vendía atoles me dijo que tuviera cuidado, que los que venían “eran muy cabrones”. Me dirigí a una de las guardias, donde los campesinos miraban en dirección a la manada de policías que allá a lo lejos se veía. Metí el zoom de la cámara, me di cuenta que eran muchos y que cubiertos por sus escudos avanzaban dando pequeños, imperceptibles pasos. Sentí miedo, ellos eran muchos fuertemente armados y los campesinos pocos y desarmados. En la pantalla de mi cámara veo como uno de los policías apunta y dispara hacia nosotros un proyectil que cuando llego a mi lado pude oler y sentir que era de gas lacrimógeno. Más y más gases lacrimógenos rápidamente fueron sepultando la calidez del olor a pan recién horneado y transformaron el angosto callejón en un campo de batalla. [...]

Apagué mi cámara y junto con los demás corrí lo más rápido que pude. Frente a la iglesia había un edificio público con las puertas abiertas y ahí me metí a esperar ilusamente que la turbulencia pasara. Habían ahí dos jóvenes resguardándose también ilusamente del ataque [...]. Una voz de hombre violentamente nos gritoneaba “bajen a esos cabrones que están en la azotea”. Primero bajaron los dos jóvenes, yo desde arriba miraba como los golpeaban y con pánico no quise bajar, ante lo que un policía gritó: “bájate perra, bájate ahora”. Baje lentamente, aterrorizada de ver como golpeaban en la cabeza a los dos jóvenes. Dos policías me tomaron haciéndome avanzar mientras otros me daban golpes con sus toletes en los pechos, la espalda y las piernas. Mis gritos de dolor aumentaban cuando escuche la voz de alguien que preguntaba por mi nombre para la

lista de detenidos, respondí “Valentina, Valentina Palma Novoa” mientras un policía me ordenaba que me callara la boca y otro me golpeaba los pechos. Una voz de hombre ordenó que me taparan con los escudos para que no vieran como me golpeaban. Se detuvieron a un costado de la iglesia y ahí me ordenaron que junto a los demás detenidos me hincara y pusiera mis manos en la nuca. Siguieron golpeándonos, mi celular sonó y una voz ordenó que registraran mi bolsa. En ese momento fui despojada de mi cámara de video, de mi celular y mi pequeño monedero con mis identificaciones y quinientos pesos. Me levantaron de los pelos y me dijeron “súbete a la camioneta puta”. Apenas podía moverme y ellos exigían extrema rapidez en los movimientos. Me avalanzaron encima de otros cuerpos heridos y sangrantes y me ordenaron bajar la cabeza sobre un charco de sangre, yo no quería poner mi cabeza en la sangre y la bota negra de un policía sobre mi cabeza me obligo a hacerlo. La camioneta encendió motores y en el camino fui manoseada por muchas manos de policías, yo solo cerré los ojos y apreté los dientes esperando que lo peor no sucediera. Con mis pantalones abajo, la camioneta se detuvo y se me ordenó bajar, torpemente baje y una mujer policía dijo: “a esta perra déjenmela a mí” y golpeó mis oídos con las dos manos. Caí y dos policías me tomaron para subirme al bus en medio de una fila de policías que nos pateaban. Arriba del bus otra policía mujer pregunto mi nombre mientras dos policías hombres pellizcaban mis senos con brutalidad y me tiraron encima del cuerpo de un anciano cuyo rostro era una costra de sangre[...].

La puerta del penal se abrió y nos avanzaron por estrechos pasillos en medio de golpes y patadas. Antes de llegar a una mesa de registro, cometí el error de levantar la cabeza y mirar a los ojos de un policía, el cual respondió a mi mirada con un golpe de puño duro y cerrado en mi estómago que me quitó el aire por unos momentos. En la mesa preguntaron mi nombre, mi edad y nacionalidad, luego de eso me metieron a un cuarto pequeño donde una mujer gorda me ordenó quitarme toda la ropa, pedía rapidez ante mi torpeza producto de los golpes. “Señora estoy muy golpeada, por favor espere” le dije. Me revisó, me vestí nuevamente y volvió a cubrir mi cara con la chamarra. Salí del cuarto y nos ordenaron hacer una fila de mujeres para ingresar formadas y cabeza abajo al patio del penal, que luego me entere que le decían “almoloyita” en la ciudad de Toluca.

Han de haber sido las dos de la tarde del jueves 4 de Mayo cuando ya estábamos dentro de las instalaciones del penal. Nos llevaron a un comedor y nos separaron a hombres y mujeres. En una esquina, en medio de llantos las mujeres nos contábamos las vejaciones de las que habíamos sido objetos. Una joven me mostró sus calzones rotos y su cabeza abierta llena de sangre, otra contaba que la habían llevado en medio de dos camiones mientras la golpeaban, vejaban y decían “te vamos a matar puta”. Otra joven me comento que tal vez y estaba embarazada, todo en medio de llantos y apretones de manos solidarios. El estado de shock entre las mujeres era evidente. [...]

Nos llegó el turno a los extranjeros de ir a hacernos el chequeo médico. Yo tenía moretones en los pechos, la espalda, hombros, dedos, muslos y piernas, se recomendó hacerme una radiografía de las costillas pues me costaba respirar, cosa que en ningún momento se hizo. La enfermera que tomaba nota y el médico que me atendió actuaban con total indiferencia a mi persona y las lesiones que presentaba. [...]

Llegaron funcionarios de derechos humanos a tomarnos declaración y fotos de nuestras lesiones, las declaraciones fueron tomadas sin interés, mecánicamente. Se nos obligó a que registráramos nuestras huellas, nos tomaron fotos de frente y ambos perfiles, nos dijeron que eso no era una ficha, que era un registro necesario pues era muy probable que en la madrugada saliéramos en libertad y que para eso se necesitaba hacer la ficha. [...]

Han de haber sido las tres de la madrugada cuando llegamos a la estación migratoria. Ahí una vez mas, un médico de mala gana constató lesiones. Dormitamos un rato porque a la hora en que llegamos no era horario de oficina, así que no habían muchos funcionarios en el lugar. Dieron las 7 de la mañana y un auxiliar nos llevo cereal con leche. Luego me tomaron declaración, una declaración en donde además de preguntar por mis datos personales, me hicieron preguntas cómo:

conoces al EZLN?, has estado en Ciudad universitaria?, participaste en el foro mundial del agua?, conocías a los otros extranjeros detenidos?, etc. Firmé la declaración a la que se adjunto mi documento migratorio, una carta de mi centro de estudios, una carta de mi maestra María Novaro, mi pasaporte, mi cedula de identidad chilena y mi credencial internacional de estudiante. Estaba en eso cuando recibo una llamada del cónsul de Chile en México, quién me pregunta mi nombre, el numero de mi cédula de identidad y si tengo algún pariente en México, me informa que lo que el puede hacer es velar que el proceso correspondiente se realice en las condiciones legales pertinentes. Regreso a continuar mi declaración y las preguntas sobre el EZLN, el sub comandante Marcos y Atenco se repiten. Mientras tanto afuera de la estación migratoria se habían congregado amigos y familiares, con los cuales no se me permite comunicar, traté de hacerlo a través de señas y carteles, pero incluso eso nos es negado. Me llevan a un cuarto en donde hay tres hombres que me dicen que están ahí para ayudarme, ellos me toman fotos de frente y ambos perfiles y en todo momento graban la conversación. Me preguntan mi nombre y si tengo algún alias, que si conozco al EZLN, que si he ido a la Selva Lacandona, que les de nombres que puedan dar antecedentes de mi, que qué tipo de documentales me gusta realizar.

Me dicen que mi amiga América del Valle esta preocupada por mi porque me había perdido mientras escapábamos del lugar, mujer de la cual recién en Chile me entero que es una de las dirigentes de Atenco que la policía persigue. Al terminar el interrogatorio, mis huellas dactilares son tomadas en una maquina muy sofisticada que va a dar a una computadora. Me sacan de la sala y me llevan a otra donde hay tres visitadoras de la comisión nacional de derechos humanos y luego de que las dos españolas y yo les contamos lo que hemos vivido, nos recomiendan urgentemente solicitar un abogado para que se gestione un recurso de amparo ante una posible deportación. El ambiente ya es tenso, así que le pido a una de las abogadas una pluma y un papel, para escribir “1 abogado” y mostrárselos por la ventana a mis amigos que están afuera, en ese momento entra un licenciado de migración y al verme escribiendo me dice: “necesitas un abogado?, yo soy abogado, cual es tu problema”, le contesto que quiero poner un amparo, ante lo que el me responde que no es conveniente poner un amparo porque el amparo implicaría estar en la estación migratoria un mes y que lo mas probable era que pronto saliésemos en libertad, las visitadoras de derechos humanos, lo increpan y le dicen que por favor me dejen hablar con alguna de las personas que están afuera. La visita se concede y hablo con Berenice, con quien me dejan hablar cinco minutos, a ella le digo que necesito un amparo y me dice que eso ya está. Me despido abruptamente de ella y luego me llevan a hacerme un chequeo médico por segunda vez en esta estación migratoria, estoy en eso, cuando un licenciado llega apresuradamente a interrumpir el chequeo y me dicen que me van a trasladar a otro lugar, yo pregunto que a dónde y no se me da respuesta. Al salir de la consulta médica me encuentro a una de las visitadoras de derechos humanos y le digo que por favor avise a mis amigos que están afuera que me van a trasladar, le pregunto al licenciado que adonde me llevan y me responde que a las oficinas centrales de migración, no me dejan seguir hablando con el y me suben a un auto particular en el que también estaba Mario, mi compatriota. Me subo, se suben tres policías, se cierran las puertas y una policía pide cerrar las ventanas. La reja de la estación migratoria se abre y el carro se va como escapándose de algo. Íbamos por periférico a más de 100 Km. por hora en medio de un tráfico contundente. Pregunto que adonde nos llevan y no obtengo respuesta, ya en el camino, me doy cuenta que vamos rumbo al aeropuerto y que delante de nosotros van dos carros más; uno con Samantha, la alemana y otro con María y Cristina, las dos españolas. Ante la inminencia de la expulsión injustificada en todo momento, no me queda más que cerrar los ojos y apretar los dientes y pensar: otra violación más.

Llegamos al aeropuerto como a las 6 de la tarde. Nos bajan de los autos y nos ingresan custodiados a una sala completamente blanca donde nos mantienen detenidos una hora o más. Luego nos ingresan a las salas de espera al interior del aeropuerto, donde nos mantienen

custodiados. Primero sale el vuelo de Samantha. Seguimos esperando y en la espera yo no hago mas que llorar, me siento mal, me paro y trato de caminar por el pasillo, se me acerca una custodia y me dice que debo estar sentada, "me siento mal" le digo, "no me voy a escapar, déjame". Sigo llorando y un policía se acerca y me dice: "ya no estés así, no conviene esa actitud, si te sirve de consuelo, déjame decirte que no estas deportada, que solo has sido expulsada del país, pero puedes volver a entrar en cualquier momento". Ilusamente sus palabras me calman. Nos llevan a un bar a fumarnos unos cigarros porque todas estamos muy alteradas. El vuelo de Lan chile de aproximadamente las once de la noche es anunciado, a mí y a Mario nos llaman, nos despedimos de María y Cristina con un apretado abrazo. Nos formamos en la fila y nos entramos al avión. Dentro del avión uno de los pasajeros se acerca a mí y me entrega unas cartas que han mandado mis amigos que estaban afuera haciendo todo lo posible para detener esta injusta expulsión. Caen mis lagrimas de no saberme sola, la custodia que va a mi lado, me dice que qué me pasa, le cuento mi caso; le digo que llevo viviendo en México 11 años, que mi vida esta en ese país, que nunca se me dijo que estaba pasando, que todo el procedimiento ha sido ilegal, que he sido golpeada y vejada por la policía. [...] El cansancio y la impotencia son demasiadas, me duermo. Me despierto con la cordillera de los Andes en la ventanilla del avión. Bajamos del avión, nos entregan a policía internacional, donde nos toman declaración del porque de nuestra deportación y/o expulsión. Afuera me esperaba mi familia, llantos, besos, abrazos. Nos vamos al hospital a constatar lesiones y rápidamente armamos una conferencia de prensa con televisión y radio, en donde denunciemos la ilegalidad de nuestra expulsión y la brutalidad policial de la que fuimos objeto.

2.- Después de lo que les he contado quisiera hacer de su conocimiento mi total rechazo, indignación y rabia ante:

a) la utilización de la violencia física, psicológica y sexual como arma de tortura y coerción en contra de las mujeres.

b) la brutalidad policial de la que fuimos objeto todos los detenidos, más allá de nuestras nacionalidades.

c) la ilegalidad de mi deportación en dos sentidos: por haber estado mis papeles migratorios en regla y por el rechazo al amparo presentando, argumentando mi ausencia en el país, cuando yo aun estaba en México.

3) Por lo expuesto anteriormente, estamos estudiando con nuestros abogados, orientar nuestras acciones tendientes a lograr:

a) Se nos restituya el derecho a seguir estudiando en México por medio de todo tipo de gestiones con el gobierno chileno y mexicano;

b) gestiones a nivel diplomático con la embajada de México en Chile;

c) poner una querrela criminal contra la policía por delito de lesiones;

d) entablar una demanda contra el Estado mexicano por deportación ilegal.

¡No a la violación, no al uso de mujeres y hombres como objetos, no a la brutalidad y a la tortura, no a la justificación de la violencia!

Testimonios 8 y 98. María Sostres y Cristina Valls

[...] una señora nos abrió la puerta de su casa y logramos refugiarnos en una habitación unas ocho personas [...] nos metieron en un camión, donde nos empezaron a golpear todo el tiempo con las porras y con patadas. Además de que nos insultaban muchísimo, a nosotras por ser españolas nos llamaban etarras, putas y más cosas. Después nos cambiaron a un camión más grande, donde pasaron lista a todos -creo que éramos 38- y nos agredieron sexualmente a las mujeres."

María Sastres: nos hicieron de todo, y como estábamos encapuchadas no veíamos quiénes eran, cuando mucho veíamos el suelo lleno de sangre y escuchábamos los gritos de dolor de la gente. No

quiero entrar en muchos detalles sobre las agresiones sexuales, pero nos quitaron la ropa, nos la rompieron, nos pasaban la mano muchos policías y prefiero ya no decir más cosas. Pero todo esto pasó en el camión en el que nos trasladaron de Atenco a Toluca, donde si intentábamos hablar con algún compañero nos pegaban, nos volvían a insultar y se reían de nosotros".

Al llegar a Toluca, las casi 40 personas que viajaban en el camión fueron ingresadas en la cárcel de Santiaguito, donde -siempre según estos testimonios- separaron a los extranjeros de los mexicanos, y se les dividió por sexo. "A los cinco minutos de entrar en la cárcel nos quitan la capucha y nos quitan las esposas, además de que, como me habían hecho sangrar la nariz, me limpiaron enseguida, pero llegué con todos los pantalones rotos, sin sujetador, con la camiseta rota y con golpes por todo el cuerpo".

Primero que nada debo decir que sí hubo compañeras que fueron violadas, pero yo no fui penetrada por los agentes policiales. Lo que sí me hicieron durante ese tiempo fue que me tocaron la vagina, los senos y me introdujeron sus dedos varios policías. Todo esto ocurrió en el autobús que nos llevó de Atenco a la cárcel de Toluca, llamada Santiaguito.

Yo no pude ver las violaciones, pero sí escuche gritos pidiendo compasión, gritos de asfixia o súplicas como "¡déjeme, por favor!", mientras los policías reían y gritaban. Y estoy segura de que fueron los policías federales, porque fueron los que nos detuvieron y nos encerraron en el camión. Pero que yo sepa nadie veía nada, porque estábamos todos encapuchados, sólo veíamos la sangre por el suelo.

En la llegada al penal nos sentamos juntas y ninguna parecía tener pena por lo que les había pasado, al contrario, estábamos todas muy indignadas y cabreadas (enojadas). Todas coincidimos en que habíamos sufrido abusos sexuales aparte de las palizas. Una dijo que la habían penetrado; luego otra también lo reconoció. Inclusive recuerdo que se hablaba de un chavo que lo había dicho y además hubo testigos que lo confirmaban.

A una chica la obligaron a decir "vaquero, vaquero", mientras un policía le pegaba en el culo. Los agresores, según pudo constatar sostres al levantar la mirada, eran agentes de la PFP que ha evitado pronunciarse hasta que no concluya su investigación interna. Las dos barcelonesas no denunciaron la violación que sufrieron, siguiendo los consejos de presuntos abogados que rondaban la cárcel. "Uno me dijo que no denunciara el abuso sexual porque me iba a causar más problemas para salir libre y podría estar hasta un año pesa. Le hice caso. Después recapacité y quise ampliar mi declaración pero ya no me dejaron".

Testimonio 10. Samantha Dietmar, de 27 años

[...] El dueño del hotel pidió que nos retiráramos, pues no quería problemas. Cuando salimos a la calle no había policías; de pronto, entre una nube de gas, apareció un grupo de agentes que nos detuvo violentamente a los cuatro que íbamos caminando. Me empujaron contra la pared, me pidieron mi identificación. Les mostré mi carnet alemán de prensa internacional. "Me preguntaron qué estaba haciendo allí. '¡No es de aquí!', gritó uno de ellos. Allí empezó el infierno. Me arrastraron del cabello hasta una camioneta donde ya había más personas apiladas. Todos estaban ensangrentados y se quejaban. Nos tiraron arriba de los demás. Los policías nos insultaban y escupían. Cuando la camioneta arrancó, pasaron por arriba de todos, insultándonos y pegándonos con las macanas en espaldas, cabezas y pies.

Como estaba arriba de todos, los policías me empezaron a manosear, a pellizcar, me tocaron las nalgas y empezaron a subirme la blusa. Como traté de bajármela, me pegaron en la cara y empecé a sangrar por la nariz. Ya no pude pensar en nada. Soporté todo sin moverme.

La camioneta se detuvo y a golpes y jalándonos de los cabellos nos obligaron a subir a un autobús. Allí había como 15 personas tiradas en el suelo, bañadas en sangre. Nos echaron encima de los

otros. Siguieron los golpes, los pisotones y los insultos. Nos obligaban a mantener las cabezas en el suelo. La policía comenzó a pedir los nombres. Me arrebataron mi bolsa con mi pasaporte, dinero y la cámara. Me preguntaron mi nombre jalándome el cabello. Grité que era de Alemania. Me cubrieron la cabeza y me obligaron a sentarme en una banca. Me preguntaron qué hacía ahí, mientras seguían golpeando a los demás con toletes y armas. Escuchaba los quejidos. Era horrible. Me dio un miedo terrible.

De pronto fui la atracción. Llegaban policías preguntando por la muchacha alemana. Hurgaban mi cara, me tocaban los senos, me manoseaban. Yo no los podía ver. Llegaron otros detenidos y los amontonaron en el suelo. El miedo paralizó a todos, nadie se movía para evitar los golpes. Muchos estaban seriamente heridos.

Me sentaron en una banca junto a los policías, que se dedicaron a querer ser buenos conmigo, pero seguían insultando y golpeando a los demás. Me descubrieron la cabeza, me ofrecieron agua. 'Si cooperas, no te va a pasar nada', me dijeron. Agarraban mechones de mi pelo, ya que me lo habían arrancado, y jugaban con ellos.

Uno me dijo '¿Quieres ser mi novia? Tienes ojos bonitos'. Repentinamente, golpeó a uno de los detenidos. Me puse a llorar. Los policías trataron de calmarme.


Cuando llegamos al penal de Santiaguito, me cubrieron la cabeza. A todos los bajaban con golpes y patadas. En la fila de registro la policía siguió golpeándolos. Los heridos fueron llevados a la enfermería del penal y nos dieron agua y algo de comer.

"Me enviaron al doctor y después me juntaron con otros cuatro no mexicanos (Cristina, Valeria, Mario y María), que también habían sido maltratados. No dejaron que habláramos con un abogado o a nuestras embajadas.

Tomaron nuestra declaración y después apareció alguien de derechos humanos y nos preguntó qué había ocurrido. Estábamos exhaustos, hacía mucho frío y nos quedamos dormidos en las bancas. Luego nos entregaron a Migración. En la madrugada nos trasladaron a la ciudad de México.

Nos separaron en distintos vuelos, acompañados por dos policías. En el aeropuerto de Frankfurt me entregaron a la policía alemana, que se sorprendió porque no les fue entregada ninguna documentación que justificara mi deportación.

ANEXO 2 NOTAS DE PRENSA



■ Para Yunes no hubo violaciones tumultuarias, sino *abusos deshonestos*

■ Medina Mora: hasta el momento no hay acusaciones de "violencia extrema"

La acusación, "trampa para inhibir la actuación de los cuerpos policiacos", considera

En Atenco no hubo violaciones sino abusos deshonestos: Yunes

Lo hay denuncias contra la PFP, sólo señalamientos de carácter público en los medios, señala

■ ROBERTO GARDUÑO Y ENRIQUE MENDOZA

El subsecretario de Prevención y Participación Ciudadana de la Secretaría de Seguridad Pública federal, Miguel Ángel Yunes, emitió la postura del gobierno foxista sobre las agresiones físicas y sexuales contra mujeres en el asalto policiaco al poblado de San Salvador Atenco: "Lo que no es creíble y lo que no podemos sostener es que se hayan dado violaciones tumultuarias en el momento de la detención".

Esa línea gubernamental, tendiente a negar la probable responsabilidad de los agentes federales, llevó al funcionario a calificar de "abusos deshonestos" lo que las mujeres atacadas han denunciado como violaciones, y aseguró que las denuncias forman parte del entramado de una estrategia contra las instituciones del Estado.

Cantinfleos de Medina Mora

Yunes Linares llegó a la Cámara de Diputados acompañando al secretario de Seguridad Pública federal, Eduardo Medina Mora, quien participó en un foro sobre *narcomenudeo*. Este último no logró evadir el tema de San Salvador Atenco y respondió de modo confuso a la pregunta sobre el inicio de una

investigación en la SSP. "Ninguna en específico; es en cuanto tenemos una causa abierta ante la Comisión de Honor y Justicia que está, digamos, investigando toda la evidencia mediática que se ha podido recoger en términos de videos, fotografías, etcétera; hasta este momento no tenemos imputación directa de ninguna persona que haya, digamos, tenido una conducta de violencia extrema con respecto a personas inermes dentro del operativo del jueves pasado".

—¿Pero se está investigando?

—Hay una causa abierta y estamos invitando a todos a que si tienen alguna información o alguna evidencia, pues con mucho gusto (sic) la proporcionen.

Después, Yunes fue el encargado de establecer los criterios policiales del foxismo tras el operativo en Atenco.

—Hay declaraciones de los policías de que les ordenaron golpear a todo lo que se moviera —se le mencionó.

—Yo tengo una impresión muy clara al respecto; no podemos de ninguna manera caer en la trampa que se quiere tender

para inhibir la actuación de los cuerpos policiacos, que están para garantizar la vigencia plena de las libertades de los ciudadanos, y cuando se trata de inhibir la actuación de éstos, haciendo declaraciones de carácter genérico, señalando a toda una corporación sin individualizar, pues estaremos cayendo en ese juego de quienes quieren inhibir la actuación de la policía.

"La policía está para garantizar la vigencia plena de las leyes, debe ajustarse a ellas también, y en esa medida la postura del gobierno federal y del estado de México ha sido muy clara: la actuación de las policías en el caso de Atenco se sustentó en la ley, y fue en ejercicio pleno de una responsabilidad. No es posible de ninguna manera que los ciudadanos que respetan el orden jurídico se conviertan en rehenes de pequeños grupos violentos, que quieren que la policía no intervenga, y quieren que los ciudadanos queden en sus manos. Se reitera entonces que el Estado intervendrá tantas veces (como) sea necesario para preservar las libertades públicas y las libertades ciudadanas."

DIRECTOR GENERAL	SECRETARIO	SUBSECRETARIO	COORDINADOR	ASISTENTE
SECRETARÍA DE SEGURIDAD PÚBLICA	SECRETARÍA DE SEGURIDAD PÚBLICA	SECRETARÍA DE SEGURIDAD PÚBLICA	SECRETARÍA DE SEGURIDAD PÚBLICA	SECRETARÍA DE SEGURIDAD PÚBLICA

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La Jorna



Miguel Ángel Yunes. Imagen de archivo ■ Cristina Rodríguez

La asistencia de Yunes a la Cámara de Diputados servía en esos momentos para responder a la creciente demanda de justicia por los actos de violencia contra los detenidos, y en especial de las mujeres vejadas. La explicación redundó en hacer respetar el multicitado estado de derecho.

“Si algún policía de manera individual generó una conducta ilícita, debe ser castigado, pero pretender juzgar a la policía como institución, o a las policías como instituciones a partir de una conducta individual, es caer en el juego de quienes quieren frenar o inhibir la acción de las policías para que los ciudadanos queden solos frente a ellos, y les puedan cancelar la libertad de tránsito, que es su libertad personal.”

—¿Hubo violaciones?

—Si hay una denuncia concreta, se tiene que investigar y se tiene que sancionar.

—¿Y la hay?

—No la ha habido. Son señalamientos de carácter público en los medios, pero hasta hoy no hay, en lo que se refiere a la Policía Federal Preventiva, ningún señalamiento concreto. Si hay alguna denuncia concreta de violación, se tendrán que practicar

los exámenes periciales de acuerdo con la ley, y se tendrá que sancionar severamente. Pero fueron miles los policías que participaron en el operativo, y yo diría que de esos miles prácticamente todos actuaron de acuerdo a la norma.

“Lo que no es creíble, y lo que no podemos sostener, es que se hayan dado violaciones tumultuarias en el momento de la detención, cuando muchos de los compañeros de ustedes (de la prensa) estuvieron presentes antes de que la policía llegara, o que se hayan dado violaciones en el traslado, cuando eran literalmente cientos de personas las que estaban siendo trasladadas, o muchos menos en los centros penitenciarios.”

Con el argumento de la defensa de las garantías ciudadanas, Yunes exigió: “No empecemos a caer en la trampa de denuncias anónimas, como las que se han presentado por este grupo, el del padre (Miguel Agustín) Pro, que hay que recordar sus antecedentes: es un grupo que se ha dedicado durante mucho tiempo a proteger a grupos violentos.”

—¿Existieron las violaciones?

—se le insistió.

—Será el Ministerio Público y una autoridad judicial la que lo determine. Si las hubo, se debe sancionar de la manera más severa a quien hubiera cometido esa falta, pero de ninguna manera podemos hacer señalamientos generales que quieran descalificar a las instituciones. Lo que hay son declaraciones de algunas personas que han hablado desde el extranjero, y que se refieren, no a violación, sino a abusos deshonestos, que es otra figura, penada también por el Código Penal, y algunas declaraciones de carácter político.

El ejemplo de Chile.

“Aquí lo que está en juego no son las libertades de uno, de dos, de cien que estén detenidos, está en juego la libertad de millones de mexicanos que no quieren que sus calles se bloqueen, que no quieren estar secuestrados, que no quieren ver en las calles a personas con machetes y actitudes amenazantes circulando por las avenidas de la ciudad. Cuidado, porque lo que se está tratando de hacer es inhibir que la policía actúe, y esto de ninguna manera es posible. Ayer o anteayer ustedes lo vieron en Chile, con un gobierno democrático y gobernado por una mujer de izquierda: la policía intervino para liberar las calles de bloqueos y manifestaciones.”

1	2	3	4	5	6
7	8	9	10	11	12



Comentó que a pesar de que las detenidas señalan que fueron víctimas de agresiones sexuales, ninguna ha presentado hasta el momento la denuncia correspondiente ante la Procuraduría General de Justicia del Estado de México (PGJEM).

Insistió en que las presuntas víctimas tuvieron la oportunidad de demostrar su dicho, pero rechazaron el examen necesario para comprobar el delito de violación.

En tanto, el Prodh ha documentado en sus listas de detenciones a 54 mujeres, de las cuales cuatro ya fueron deportadas, a diferencia de la información que el procurador de Justicia del Estado de México, Abel Villcaña Estrada, y en la que se desconoce que haya delitos de esa naturaleza.

Por su parte, Amnistía Internacional emitió una acción urgente para que se esclarezcan los hechos y manifestó su preocupación por cada persona detenida, al tiempo que pide a las autoridades garantizar su integridad y les permita la asistencia médica.

Actrices con atencos

En tanto, el subcomandante Marcos sostuvo una reunión con las actrices Ana Colchero y Ofelia Medina, al término de la cual anunciaron acciones en favor de las mujeres detenidas en el marco de los hechos en San Salvador Atenco, Estado de México.

Cada quien su versión

Las autoridades dicen que no hay pruebas de que se hayan realizado los ultrajes, sin embargo, activistas tienen una versión de los hechos distinta y aseguran que lo probarán.

“ No se tiene ninguna imputación directa de conductas violentas por parte de los policías federales preventivos que participaron en el operativo para restablecer el orden.”



EDUARDO MEDINA MORA, SECRETARIO DE SEGURIDAD PÚBLICA.

“ Se giraron instrucciones a la procuraduría para que enviara a (penal de) Santiaguillo médicos legistas... ninguna se quiso someter al examen médico ginecológico.”



HUMBERTO BENÍTEZ TREVIÑO, SECRETARIO DE GOBIERNO DEL EDOMEX.

“ Las víctimas presentarían su denuncia una vez superadas las secuelas de la agresión... Por ahora el acceso a las mujeres (ultrajadas) ha sido limitado.”



LUISA PÉREZ ESCOBEDO, ABOGADA DE PRODH.

“ Si existieron violaciones, tendrá que ser el MP el que lo determine... no se puede prejuzgar, calificar o señalar que hubo una violación mientras no se dé una denuncia concreta.”



MIGUEL ÁNGEL YUNES, SUBSECRETARIO DE LA SSP.

“ Solicitamos que se lleve la investigación hasta sus últimas consecuencias... (se debe) aclarar si los derechos de las mujeres fueron violentados y si fueron violadas.”



PATRICIA ESPINOSA TORRES, PRESIDENTA DEL INMUJERES.

ESTADO DE MÉXICO	CIUDAD DE MÉXICO	GUANAJUATO	QUERÉTARO	ESTADOS UNIDOS MEXICANOS
VERACRUZ	CIUDAD DE GUATEMALA	GUERRERO	GUAYMAS	ESTADOS UNIDOS MEXICANOS

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De: tzitzi <tzitzi@centroprodh.org.mx>
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Desacreditan video de ONG sobre policías
Robledo y Yunes reiteraron que el operativo fue para restaurar el estado de Derecho y que se harán todas las averiguaciones que sean necesarias

Grupo Reforma

Ciudad de México (12 mayo 2006). -Wilfrido Robledo, comisionado de la Agencia de Seguridad del Estado de México, consideró como posible "farsa" o "trampa" el video presentado por la organización de derechos humanos Agustín Pro, en el que se muestra a tres presuntos policías que declaran abusos de autoridad en el operativo policiaco de San Salvador Atenco.

Sustentó su opinión al argumentar que dicho material no se presentó ante la Procuraduría General de la República.

"Si tuvieran seriedad que lo lleven y ante la autoridad, porque en primer lugar todo lo que están diciendo se contradice con las instrucciones que yo di a los elementos de la Policía.

"No creo que sea cierto. El policía que tenga que dar un testimonio que lo dé ante el Ministerio Público, pero los policías se estaban jugando la vida en ese momento, porque no les estaban aventando flores", expresó para W Radio.

Según el funcionario, el video impacta mediáticamente pero ministerialmente no sirve.

Por su parte, Miguel Ángel Yunes, Secretario Ejecutivo del Consejo Nacional de Seguridad Pública, restó toda credibilidad a la grabación.

"(El video) forma parte, insisto, de una estrategia para inhabilitar a la Policía desde el punto de vista ético (...) ¿Realmente se puede creer a tres personas que de espaldas dicen esto?

"Es un Centro (el Miguel Agustín Pro) que ha estado vinculado a estos grupos violentos desde hace mucho tiempo", dijo Yunes.

Sobre las presuntas violaciones a diversas mujeres en el operativo de San Salvador Atenco, Estado de México, Robledo reiteró que no hubo consumación de tales hechos.

"Ya me cansé de decir que no fueron violadas, pero no toman en cuenta mis declaraciones, nada más toman en cuenta las declaraciones de otras mujeres", aseveró.

Para Robledo, el operativo estuvo prácticamente limpio, pero se investiga a quienes al parecer se sobrepasaron en el operativo y se les aplicarían las sanciones correspondientes.

"La Policía actuó y restableció el Estado de Derecho en este lugar. Hay errores, no tenemos los mejores policías, pero hay que ver el fondo del asunto.

"La Inspección General de donde depende Asuntos Internos ya está haciendo la investigación correspondiente. (...) Estamos identificando a todos (los policías) que aparecen en el video. (...) Tenemos aproximadamente entre seis y 10, pero no podemos saber porque no se identifican plenamente", mencionó.

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Dependencias dan datos diferentes sobre policías investigados. Son 8, dice Wilfrido Robledo; 52, según la Procuraduría local.

Difieren sobre cifra de policías investigados por caso Atenco

Robledo asegura que son ocho; la Procuraduría estatal reporta 52

Juan Manuel Barrera

TULTITLÁN, Méx.— Solamente ocho policías estatales son investigados por "extralimitarse" en el uso de la fuerza en Atenco, aseguró Wilfrido Robledo Madrid, comisionado de la Agencia de Seguridad Estatal (ASE), quien agregó que los 40 elementos de la corporación que participaron en el traslado de los detenidos a Toluca "están limpios".

No obstante, fuentes de la Procuraduría de Justicia de la entidad detallaron que son investigados 52 policías estatales relacionados con los hechos violentos en Atenco, ocho de ellos en torno a la violencia generada en Tierra, y los restantes 44 por su intervención en el traslado de los detenidos en autobuses.

En entrevista realizada en este municipio, en donde se reunió con empresarios de la localidad, quienes reclamaron mayor seguridad,

Robledo Madrid indicó que está dispuesto a comparecer ante el Congreso local o cualquier instancia para explicar la participación de la policía estatal en San Salvador Atenco.

El comisionado, quien intentó evadir a los reporteros, aclaró que no son 40 los policías estatales investigados por los hechos en Atenco, sino solamente ocho, los cuales se "extralimitaron" en el uso de la fuerza, durante el operativo policiaco que culminó con la detención de decenas de integrantes del Frente de Pueblos en Defensa de la Tierra (FPDT).

Explicó que la confusión en cuanto al número de policías estatales investigados obedece a "que yo proporcioné los nombres de todos los elementos que participaron en el traslado de los detenidos y todos 'están limpios'".

Agregó: "En los autobuses no sucedió absolutamente nada", con lo que descartó las acusaciones de que varias mujeres fueron víctimas de abuso sexual y violación en su traslado.

El titular de la ASE aseguró que los ocho policías estatales implicados en los hechos de violencia continúan trabajando en la corporación, por lo que ninguno de ellos ha huido.

Robledo Madrid reiteró que la policía estatal acudió en apoyo de la Policía Federal Preventiva (PFP), toda vez que los manifestantes bloqueaban una vialidad federal y posteriormente "cuando secuestran a 13 compañeros de los tres órdenes de gobierno, fuimos todos a rescatarlos".

Por su parte, la Comisión Nacional de Derechos Humanos (CNDH) informó que existen indicios de abusos sexuales y violación cometidos en contra de mujeres detenidas en San Salvador Atenco, por lo que mantiene una investigación al respecto.

FECHA	DE	DEPOSITOS	IMPRESIONES
18/05/06	MEXICO	52	8

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HOJA

“Nada pasó” en el traslado, dice Wilfrido Robledo

■ SILVIA CHAVEZ GONZALEZ

CORRESPONSAL

TULTEPEC, MEX., 25 DE MAYO. El comisionado de la Agencia de Seguridad Estatal (ASE), Wilfrido Robledo Madrid, precisó que son ocho los policías estatales, y no 52 como aseguró la Procuraduría de Justicia mexiquense, los elementos sujetos a investigación penal por los hechos de violencia registrados en San Salvador Atenco. Pero adelantó que “todos están limpios” y que en los autobuses de traslado de reos “no sucedió absolutamente nada”.

En contraparte, fuentes de la Procuraduría de Justicia precisaron que la dependencia mantiene sujetos a investigación a 52 policías de la ASE. De ellos, ocho son investigados por los actos violentos registrados durante el operativo policiaco del 4 de mayo y 44 por abusos —presuntamente físicos y sexuales— cometidos durante el traslado de los detenidos de San Salvador Atenco al Penal de Santiaguillo.

Robledo aprovechó el encuentro con empresarios de Tultitlán, para afirmar: “yo quiero ganarme la confianza de la sociedad, pero que me vean aplicar la ley, pues la población se desmoraliza cuando ve que un gobierno no aplica la ley”.

ANEXO 3³
INFORME ACAT



Acción de los Cristianos para la Abolición de la Tortura

**PROYECTO DE ASESORÍA Y ATENCIÓN A INDÍGENAS
SOBREVIVIENTES DE TORTURA RECLUIDOS EN EL D.F**

**EVALUACIÓN DEL DIAGNÓSTICO APLICADO A 79 MUJERES RECLUIDAS EN EL
CENTRO FEMENIL DE SANTA MARTHA ACATITLA**

Objetivo: conocer la situación personal y jurídica que viven las mujeres recluidas en el Centro de Readaptación Social de Santa Martha Acatitla, Distrito Federal.

Observaciones al diagnóstico: se han aplicado hasta ahora 79 diagnósticos que nos permiten un primer acercamiento respecto de la situación general y posibles violaciones a derechos humanos, incluyendo la tortura, que vivieron las mujeres entrevistadas; antes de su ingreso al reclusorio y presentación ante la autoridad judicial. De la información recabada, podemos destacar:

- El 74% de las mujeres a las cuales se aplico el diagnóstico, eran, antes de su detención, el sostén económico de la familia. De las 79 internas que conforman la muestra, 32 eran casadas o vivían en unión libre en el momento de la detención; de estas, 22 eran el sostén económico de la familia.
- Podemos hablar de una población joven, donde el 60.7% tiene menos de 35 años; el 21.5% tienen menos de 25 años, de las cuales 70.5% son madres. El promedio de hijos por mujer es de 2.5.
- Son 4 las mujeres que no saben leer ni escribir, y tienen 22, 36, 50 y 62 años de edad; 2 de ellas afirman no haber tenido conocimiento del contenido de los documentos que firmaron cuando se encontraban detenidas en las instalaciones del Ministerio Público, debido a su situación de analfabetas.

3 Only available in Spanish

- En cuanto a la forma de detención reportada, constatamos que en 62% de los casos, las internas indicaron que las personas que las detuvieron no se presentaron con orden de aprehensión. Por otro lado, un 39% señala que la detención fue violenta, con aplicación de golpes contra ellas y en algunos casos contra alguno de sus familiares. En el 32% de los casos, las mujeres fueron llevadas por engaño a las agencias del Ministerio Público. El engaño pudo tener las formas siguientes: solicitándoles que fueran a identificar el cuerpo de algún conocido; diciéndoles que sólo se les realizaría unas preguntas. Fueron dos los casos en los que se presentaron en la delegación para preguntar por algún conocido y que ahí mismo fueron detenidas, señalaron que la policía llegó preguntando por otras personas y terminaron llevándoselas a ellas.
- El arresto en el 53% de los casos fue llevado a cabo por elementos de la Policía Judicial del Distrito Federal, siendo importante mencionar que el 15% de las internas no pudo identificar en su momento la corporación a la cual pertenecían los aprehensores. En estos casos, los agentes que las detuvieron se encontraban vestidos de civil, encapuchados o no se identificaron.
- Es importante señalar que el 84% de las internas expresa haber sido incomunicadas en el momento de la detención. En el 87% de estos casos, la incomunicación duró un día o más, siendo el tiempo medido de incomunicación dos días y medio.
- El 75% de las internas señaló que durante su detención en la agencia del Ministerio Público, firmaron algún documento. De estas, 29% tuvo conocimiento del contenido del documento y estuvo de acuerdo con firmar el mismo, mientras que en 7%, a pesar de conocer el contenido y no estar de acuerdo con éste, fueron obligadas a firmarlo. Por otro lado, el 54% expreso no conocer el contenido de lo que firmaron, debido a que no se les permitió leerlo o porque no sabían leer; de estas, el 9% indicó que la declaración rendida fue dictada, pero que al momento de firmarla no se las dejaron leer, lo cual las lleva a pensar que ésta sufrió graves modificaciones. Finalmente, un 8% firmó hojas en blanco.
- Otro dato a destacar es que el 39% de las mujeres entrevistadas señaló que al ser presentadas ante el Ministerio Público, no contaron con ningún tipo de defensa y asesoría. 59% de las mujeres sí contó con algún tipo de asistencia, 36% de ellas tuvo un defensor de oficio, el 15% un defensor particular y un 8% contó con una persona de confianza. En cambio, sólo el 28% de las mujeres que fueron asistidas pudo hablar con su defensor antes de declarar.
- Es posible observar que en el momento de la detención y la presentación en la agencia del Ministerio Público, son pocas las acciones que se llevaron a cabo en defensa real y objetiva de las detenidas, pues tan sólo el 15% considera que se hizo algo a su favor, mientras el 67% refiere que no se hizo nada. Actualmente, el 72% de las mujeres entrevistadas no cuenta con ningún tipo de defensa, solo un 19% tiene abogado particular, y un 9% cuenta con defensor de oficio.
- El 90% de las internas refiere desconocer por completo sus derechos en el momento de la detención y manifiesta que nadie se los enunció ni explico. En el caso de aquellas a quienes se les han explicado, ha sido después de la detención.
- En cuanto a la parte del diagnóstico relacionada con el trato físico y psicológico recibido, podemos destacar lo siguiente:
 - Un 64% de las mujeres entrevistadas refiere haber sido víctima de agresiones o maltratos en el momento de la detención y en un 51%, haberlo sido también después de la detención.

- Habría que destacar que el tipo de tortura a la que principalmente han sido expuestas las mujeres ha sido la tortura psicológica, pues el 78% señala haber sido víctimas de agresiones verbales, de amenazas de tortura contra ellas, de amenazas de encarcelamiento, de muerte, amenazas contra alguno de sus familiares, o bien algún tipo de humillación. Este tipo de tortura aparece constantemente en el discurso de las internas como algo muy marcado. Al analizar las respuestas proporcionadas por las mujeres, en comparación con las respuestas proporcionadas por los hombres, consideramos que la amenaza y coacción psicológica tiene mayor impacto sobre las mujeres que sobre los hombres, debido a la estrechez e incondicionalidad de su relación con los hijos y familiares.
- El 52% de las mujeres entrevistadas fueron sometidas a golpes en diferentes partes del cuerpo, y en el 39% de estos casos, los golpes se aplicaron con algún tipo de objeto, siendo las armas los objetos mas señalados. Del conjunto de las internas que señalan haber sido que fueron golpeadas el 54% fueron también sometidas a posiciones forzadas.
- En la mayoría de los casos en los que se privó a la interna de agua y/o comida, esta fue incomunicada, siendo de 3 días el promedio de tiempo de incomunicación.
- Es posible observar que en el 23% de los casos donde se reporta algún tipo de tortura física más severa, como quemaduras, toques eléctricos, asfixia o abuso sexual, se sometió previamente a la persona a golpes, agresiones verbales, posiciones forzadas, privación de agua, comida o exposición a estímulos aversivos y/o algún tipo de humillación. Lo cual nos indica que la tortura física implica también la psicológica, cuando la tortura psicológica no implica necesariamente la tortura física.