

Case Study Brief

ELLA Area: Governance

ELLA Theme: Promoting Human Rights



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Evidence and lessons
from Latin America

In this groundbreaking case, victims of human rights violations formed a united front to demand integral redress from a government responsible for past abuses and crimes, highlighting how an integral approach to redress can happen in practice.

INTEGRAL REDRESS: THE CASE OF OAXACA, MEXICO

SUMMARY

What can victims of human rights violations hope to achieve by demanding the safeguarding of their rights from a government responsible for past abuses and crimes? This Brief presents the experience of victims of arbitrary imprisonment, torture and physical abuse during the repression of a social movement in Oaxaca, Mexico, in 2006. By organising themselves in different ways, these victims mobilised to demand their rights to justice, truth and to a range of reparation measures ('integral redress') for the abuses they had suffered. This experience shows that victims can challenge governments to make changes to the structural conditions that enable human rights violations to happen time and again. This Brief begins by explaining the concept of integral redress before describing how victims of repression in Oaxaca were able to learn from experiences of other Latin American countries and develop appropriate proposals for integral redress.

THE RIGHT TO INTEGRAL REDRESS

The right to redress has been enshrined in human rights legal frameworks for many decades,¹ however the concept of 'integral redress' is a far more recent development. In contrast to mere economic compensation - the most common form of redress made by governments world-wide - integral redress entails a range of structural and institutional reforms, as well as appropriate compensation, sanctions for violators of human rights and transparent efforts to reconstruct the truth (see Box 1).

KEY LESSONS LEARNED

Victims of human rights violations play a key role in driving forward structural transformations in government and society, and can do so by appealing for integral redress.

Victims of human rights violations are the most legitimate actors to set the terms of satisfactory integral redress.

¹ Such as the Universal Declaration of Human Rights Article 8, the International Covenant on Civil and Political Rights Article 2(3) (a) and the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment Article 14 (1). The United Nations (2005) [Updated Set of Principles For the Protection and Promotion of Human Rights Through Action to Combat Impunity](#) states that "any human rights violation gives rise to a right to reparation on the part of the victim or his or her beneficiaries, implying a duty on the part of the State to make reparation and the possibility for the victim to seek redress from the perpetrator. All victims shall have access to a readily available, prompt and effective remedy in the form of criminal, civil, administrative or disciplinary proceedings ... provided through programmes, based upon legislative or administrative measures, funded by national or international sources, addressed to individuals and to communities."



Box 1: Government Obligations Concerning Integral Redress

- 1. Restitution**, which entails restoring the rights and liberties to the victim that were breached by the criminal act
- 2. Rehabilitation**, including medical and psychological assistance to victims who suffered physical and psychological harm, as well as any other legal and social assistance required
- 3. Satisfaction**, which includes modifications to judicial procedures and investigations, sanctions for human rights offenders, full disclosure of criminal acts, and other actions to commemorate victims
- 4. Guarantees of non-repetition**, such as institutional reforms to ensure civil rule of military forces, strengthening the independence of the judiciary, measures to promote human rights, and improving access to information on human rights violations and to redress mechanisms
- 5. Compensation** for the damages and harm, which should be adequate and proportional to the gravity of the violation and the circumstances of each case

Source: UN General Assembly Resolution. 2006. [Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#). United Nations, New York.

For decades, Latin American people have suffered extreme human rights violations at the hands of authoritarian regimes and military dictatorships, and as a result of civil conflict. From this repression, groups of victims have emerged as crucial actors in transitional justice processes² by calling on governments to guarantee their rights. A prime example is the [Mothers of the Plaza de Mayo](#) in Argentina whose female activist members began demonstrating during the military dictatorship, in spite of the risks, to demand the right to be

reunited with their abducted children and relatives (the 'disappeared').³ In Mexico, victims of femicide have helped to expose this social phenomenon, including drawing attention to the impunity of perpetrators and the inefficiency and corruption amongst public servants. Civil groups representing femicide victims have pushed for the creation and strengthening of the Public Prosecutor Office Specialised in Femicide and have also played a key role in finding 114 disappeared women.⁴

Yet even after transition to democracy, episodes of social conflict and repression have led to human rights violations in many Latin American countries. Many of the victims of these recent or on-going conflicts are still appealing for due redress and improvements to the justice system.

In Mexico, for example, the government has created many obstacles to recognising and assuming its obligations concerning integral redress for victims of human rights violations. Likewise, little progress has been made towards developing the necessary legislative framework, although some secondary measures have been taken, such as the recent passing of the Victims Law in 2012. Mechanisms that can help prove the harm inflicted on victims, such as cultural and psychological expert reports and environmental evaluations, have only been partially incorporated into the justice system. Federal and local governments have also demonstrated a lack of political will to recognise whenever massive and systematic human rights violations are taking place. In general, the Government of Mexico has only acted on cases that have been judged in favour of the victims by the Inter-American Court of Human Rights. Examples include victims of enforced disappearance during the Dirty War in the 70s,⁵ femicide victims in the northern state of Chihuahua⁶ and female victims of sexual violence in the southern State of Guerrero.⁷

In contrast to Mexico, other Latin American governments have acknowledged massive and systematic human rights violations more promptly, and have accepted the responsibility to provide

² Transitional justice refers to the set of judicial and non-judicial measures implemented in order to redress the legacies of massive human rights abuses. These measures include criminal prosecutions, truth commissions, reparations programmes, and various kinds of institutional reforms. See International Center for Transitional Justice (ICTJ). 2009. [What is Transitional Justice Factsheet](#). ICTJ, New York.

³ Navarro, M. 1989. The Personal is Political: Las Madres de Plaza de Mayo. In: Eckstein, S. (Ed.) *Power And Popular Protest: Latin American Social Movements*. University of California Press, Berkeley.

⁴ Testimony of Norma Ledezma, whose daughter disappeared and was killed in Chihuahua during the Second Bi-national Meeting of the Movement for Peace with Dignity and Justice. See also: Mexican Commission for the Defence and Protection of Human Rights. 2009. [El Brillo del Sol Se Nos Perdió Ese Día. Informe Sobre el Impacto Psicosocial del Femicidio en el Caso de Paloma Angélica Escobar Ledezma](#) (On That Day the Sun Stopped Shining: Report on the Psycho-social Impacts of Femicide in the Case of Paloma Angélica Escobar Ledezma). Mexican Commission for the Defence and Protection of Human Rights, Mexico City.

⁵ See Inter-American Court of Human Rights. 2009. [Case of Radilla-Pacheco vs. Mexico](#). Judgment of 23 November 2009.

⁶ See Inter-American Court of Human Rights. 2009. [Case of González et al. \("Cotton Field"\) vs. Mexico](#). Judgment of 16 November 2009.

⁷ See Inter-American Court of Human Rights. 2010. [Case Rosendo Cantú et al. vs. Mexico](#). Judgment of 31 August 2010.



integral redress to victims. Due to the large number of victims involved, governments in countries such as Argentina, Chile, Colombia, Guatemala and Peru have established integral redress programmes.⁸ These acts imply that in spite of the existence or not of transformative judicial processes, the executive or legislative branches in some Latin American countries have created programmes that incorporate integral redress actions for victims and for society as a whole.⁹

Diverse experiences of integral redress in Latin American countries provide a broad range of lessons for other regions, in particular for groups interested in developing proposals for adequate reparation of human rights abuses, actors wanting to find out more about mechanisms for appeal, as well as transitional justice processes more generally.

The methodology used in the elaboration of this Brief included a review of various documents on transitional justice and redress produced by international human rights organisations, consultation of international human rights legal frameworks, and consultation of academic texts and collaborative work carried out by Fundar, Center for Research and Analysis (the authors of this Brief) with the Committee of Parents and Friends of the Disappeared, Assassinated and Political Prisoners of Oaxaca (COFADAPPO) during 2012.

THE CASE OF OAXACA

Background

Mexico is a federal republic with 31 sovereign states and one federal district. In other words, each state has its own government formed by executive, legislative and judicial powers, and its own constitution. In 2000, Mexico underwent a process of political change after 70 years of rule by the authoritarian Institutional Revolution Party (*Partido Revolucionario Institucional* - PRI). Under the PRI regime, political opposition was allowed and elections were held regularly, though the PRI won all of the presidential

and congressional elections. The office of the president concentrated many constitutional and extra-constitutional powers, making it a presidentialist regime that followed a distinct path from that of other South American countries making the transition towards democracy and away from military dictatorships.¹⁰

Democratic transition in Mexico is still underway today and progress has depended heavily on the extent to which political institutions and sub-national units are still pervaded by authoritarian rule and practices.¹¹ Indeed, it is increasingly recognised that as the presidentialist regime crumbled, governors in different Mexican provinces were able to increase the margin of discretionary and arbitrary power they held over populations living within their jurisdiction.¹²

Oaxaca is located in the southern part of Mexico and has a population of almost 4 million people. It is ranked as a highly marginalised state, third only after Guerrero and Chiapas, and in 2010, 90.7% of its population was considered poor or vulnerable.¹³ Oaxaca is one of the Mexican states that experienced the longest period without political changes to the governing party, the PRI having governed there for 83 years. It wasn't until 2011 that a coalition of opposition parties won the elections, thereby beginning a new stage in the political life of Oaxaca that many considered "post-authoritarian" or one of "political transition".¹⁴

A Social Movement Emerges

The last administration of the PRI, led by Ulises Ruiz Ortiz (2004-2010), was characterised by highly repressive rule and by Ruiz Ortiz's continuous attempts to undermine any kind of positive relationship with civil society. In this context, a social movement emerged in 2006 demanding dialogue with federal authorities to address calls for the dismissal of the governor and for state reform, among others complaints. This social movement grew in Oaxaca where it was formed by teacher members of the Popular

⁸ On administrative programmes for integral redress, see: Organización Internacional de las Migraciones. 2010. [Estudio Comparado de Programas de Reparación Administrativa a Gran Escala](#) (Comparative Study of Redress Administrative Programmes in Large Scale), Bogotá.; Inter-American Institute of Human Rights (IHR). 2011. Contribution of Truth, Justice And Redress Policies to Latin American Democracies. IHR, San José.

⁹ Another important aspect of redress that has been pushed forward in Latin America is the need for culturally-appropriate reparations to compensate indigenous people against human rights violations. To learn more about a groundbreaking case, see the [ELLA Case Study Brief: Victims' Rights In Multicultural Contexts: The Case of Inés Fernández at the Inter-American Human Rights Court](#).

¹⁰ Meyer, L. 1977. Historical Roots of the Authoritarian State in Mexico. In: Reyna, J.L., Weinert, R.S. (eds.). *Authoritarianism in Mexico*. Institute of the Study of Human Issues, Philadelphia.

¹¹ Fox, J. 1994. [The Difficult Transition from Clientelism to Citizenship: Lessons From Mexico](#). *World Politics*. 46 (2) 151-184.

¹² Hernández, R. 2008. *El Centro Dividido. La Nueva Autonomía de los Gobernadores (The Divided Centre. The New Autonomy of Governors)*. El Colegio de México, Mexico City.

¹³ 2010 poverty estimates by states, National Council for Evaluation of Social Policy (Coneval for its Spanish acronym).

¹⁴ See Leonel, V. and Martínez, J. [Transición Oaxaqueña: Los Pendientes \(The Oaxacan Transition: Pending Issues\)](#). Accessed 23rd May, 2013.



Assembly of the Peoples of Oaxaca (*Asamblea Popular de los Pueblos de Oaxaca* - APPO). The APPO represented more than 300 civil and social organisations, as well as many individuals that joined the movement by taking to the streets and building barricades in city neighbourhoods and surrounding towns. Local government offices and many radio and television stations were also occupied by the social movement.

The movement faced several repressive strikes from local and federal police and military troops in 2006 and 2007, resulting in massive human rights abuses including violations to the right to life, to personal freedom and personal integrity, to access to justice and a due legal process, to children's rights, to freedom of expression and access to information, as well as arbitrary detentions and forced disappearances.¹⁵

Victims Mobilise to Demand Redress

The Committee of Parents and Friends of the Disappeared, Assassinated and Political Prisoners of Oaxaca (Cofadappo) was set up in response to the arbitrary detentions of civilians during 2006 and 2007. Cofadappo brought together dozens of people whose human rights had been violated or whose relatives had suffered abuse. Due to a government strategy to divide the social movement, Cofadappo has gone through various fragmentation events.¹⁶ Cofadappo, along with other victims' organisations, social organisations and human rights defenders, has been demanding justice, truth and redress for the serious human rights violations that occurred during the 2006-2007 conflict as well as during the entire Ruiz Ortiz administration.

Since 2007, Cofadappo has been raising funds to be able to visit and provide assistance to many civilians imprisoned for long periods. Cofadappo also organises symbolic events to commemorate those who were killed during the repression. On August 29th 2011 Cofadappo joined with other organisations to create the Citizens Space for Justice and Truth in Oaxaca (*Espacio Ciudadano por la Justicia y la Verdad en Oaxaca*).¹⁷ One of the main demands of this

collective was for the formation of a Truth Commission, with participation of victims and other social groups, aimed at broadening investigations already initiated by the Special Prosecutor's Office for Investigation of Past Crimes. The group represented a space in which participants could propose reparation actions for victims and their relatives. The Civil Space used social networks, alternative media, demonstrations, organised public debates and meeting with other social movements, including the Movement for Peace with Dignity and Justice (*Movimiento por la Paz con Justicia y Dignidad* - MPJD), a national movement formed of victims of organised crime in Mexico.

In November 2011, the local government offered economic compensation to victims of the 2006-2007 repression in Oaxaca via a closed process that fell far from meeting international standards of integral redress. The offer caused a split of opinion among victims and within the Citizens Space for Truth and Justice in Oaxaca, with some victims agreeing to receive the monetary compensation and others rejecting the proposal as unsatisfactory.¹⁸ The government did not document or analyse the harm caused to each of the victims, so the economic reparation did not reflect the relative gravity of each case. Furthermore, the compensation was also offered without consideration of other dimensions of integral redress such as restitution, rehabilitation, satisfaction and non-repetition measures that could help to avoid human rights violations in the future.

Towards an Agreement

Unsatisfied with the local government's proposals, Cofadappo began building the capacity of its members to understand integral redress, including supporting them to attend workshops. The organisation also continued calling on the government for integral redress. Finally, in 2012, in the face of sustained pressure from Cofadappo, together with other civil society organisations, the Oaxaca State Government agreed to sign a commitment ('Agreement of the Executive Power') to ensure adequate reparation for the victims.

Cofadappo's members considered the agreement a

¹⁵ The International Commission for Human Rights Observation (CCIODH). 2007. [Report Concerning The Events In Oaxaca](#). CCIODH, Barcelona.

¹⁶ It is a common political strategy for governments to try to divide social movements demanding redress. By dividing them, governments avoid reparation or the restoring of rights.

¹⁷ The other member organisations were [Gobixha Committee for the Integral Defence of Human Rights \(Comité de la Defensa Integral de los Derechos Humanos - CODIGODH\)](#), the Faculty of Law at the Independent University Benito Juárez of Oaxaca, the [Mexican League for the Defence of Human Rights \(Liga Mexicana de Defensa de Los Derechos Humanos - LIMEDDH\)](#), [Services for Alternative Education \(Servicios para un Educación Alternativa - EDUCA\)](#), [Services of the Mixe People \(Servicios del Pueblo Mixe - Sermixe\)](#), the [Earth University \(Universidad de la Tierra - UNITIERRA\)](#), MAIZ, Mujer Nueva, Calpulli, OPIZ and Consorcio Parlamentario.

¹⁸ Member opinion of the Citizen Space for Justice and Truth in Oaxaca on the economic compensation offered to victims in November 2011, [website](#) consulted on 17th April 2013.



more satisfactory proposal for redress than the mere economic compensation offered by the government a year before. The agreement issued by the government symbolised an important achievement and demonstrates how pressure from organised groups of victims can result in a concrete and satisfactory plan for integral reparation.

In spite of widespread approval amongst victims and representative groups, the agreement has some key limitations. Firstly, it was passed as an Executive Power Decree, not an initiative that was passed through the local congress to acquire the standing of a law with obligations applicable to the judicial and legislative powers. Second, the process of developing the agreement did not encourage participation from the different victims' organisations, and there was no sustained effort to reach out to all victims. Finally the implementation of the Agreement continues to lack transparent and sound procedures for decision making and victim participation.

In preparation for the implementation of the agreement, Cofadappo's members collectively identified the different types and gravity of harm suffered at the individual, family and collective levels, and between them decided what measures could symbolically redress the experiences they had suffered. Cofadappo's members also referred to integral redress programmes being implemented in Argentina, Chile, Colombia and Peru, in order to learn from previous failures, limitations, opportunities and successes.¹⁹

These efforts have enabled the organisation to formulate

specific proposals that meet international standards for integral redress. Finally, the challenging process of demanding the right to integral redress has compelled victims' organisations to face their differences, to recognise the diversity of opinions, political ideologies and *modus operandi* of each group and to build common ground.

Cofadappo is a successful example of a civil society organisation that put pressure on a government to improve on its offer of mere economic compensation by establishing a formal agreement for integral redress. Another important achievement of the organisation has been the development of a proposal for Integral Redress Policy Guidelines with participation from other victims and civil organisations.

This proposal of policy guidelines specifies different redress actions that relate to differentiated types and gravity of personal, family and collective harm. Cofadappo's proposal includes satisfaction measures as well as guarantees of non-repetition, measures that according to international redress standards are necessary to ensure that human rights violations never occur again.

The Oaxaca State Government has not yet demonstrated any predisposition to consider victims' proposals or to ensure the legitimacy and transparency of the process, which is crucial for generating confidence. At the same time, though, victims and society as a whole are less inclined to accept any redress measure that does not meet standards set out in international human rights legal frameworks.

¹⁹ On these issues see Inter-American Institute of Human Rights (IHR). 2011. [Contribution of Truth, Justice and Redress Policies to Latin American Democracies](#). IHR, San José. See also publications by the [International Center of Transitional Justice](#).

LESSONS LEARNED	<p>1 The participation of victims of human rights violations is crucial in the development of new relationships between the state and society.</p>	<p>2 Victims whose human rights have been violated by government abuses play a unique role in helping to define processes of transitional justice that improve legitimacy and confidence in the governing institution.</p>	<p>3 Victims are the most legitimate actor to set the terms of appropriate redress measures for individual, family and collective suffering caused by state violence.</p>
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