



General Assembly

Distr.: General
16 November 2023

English only

Human Rights Council

Fifty-third session

19 June–14 July 2023

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Liberation, a non- governmental organization on the roster

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

[30 May 2023]

* Issued as received, in the language of submission only.



The Enforced Disappearance of Claudia Uruchurtu

According to the Mexican State official statistics, there are more than 111,850 people missing in the country. The UN Committee on Enforced Disappearances (CED) has reported worrying patterns in the commission of acts of enforced disappearance by public officials and by persons in organised crime, with the collusion, participation, acquiescence, or omission by public officials. For human right defenders, women and other vulnerable groups, the threat of violence and disappearance is an ever-present reality. Perpetrators rely on the corruption entrenched in the system, impunity, and the normalisation of violence by society at large.

On 26th March 2021, Claudia Uruchurtu was forcibly taken after a demonstration against the local authorities in the town of Nochixtlan, Oaxaca state, Mexico.

For several years, Claudia documented and filed many complaints against the Nochixtlan's authorities, for mismanagement of public funds, embezzlement, nepotism, as well as intimidation and abuses against the population of the town. In a state where over 62% of the population live under the national poverty line, using public funds for personal gain is simply inhumane. Claudia did what very few people do: she denounced corruption and demanded social justice.

In May 2021, several individuals were detained, including the ex-mayor of the town Lizbeth Victoria Huerta, Juan Antonio Hernández Martínez (Mayor's driver and security guard), material author Johan Ricardo Matus Marcial (Legal advisor), Nelci Yanet Vásquez Jiménez (Municipal worker), and Rolando Aquino Barrita (Municipal worker).

The five individuals named above were charged with the enforced disappearance of Claudia and kept in preventive jail. The time given to the local police and prosecutors to complete the police investigation was minimal, and it took more than 18 months and many setbacks -due to intervention of local political actors, to bring the case to court.

All five individuals were found guilty. The material author was given a 60-year jail term. Three others received 40-year jail terms.

In the case of the ex-mayor of Nochixtlan, the judge reclassified her crime at the very last minute and she was only convicted for obstruction for the search of Claudia; the ex-mayor received a sentence of 4 years.

According to the UN CED, in Mexico only a minimal percentage of cases of disappearance (between 2% and 6%) had been brought before the courts and, by the end of 2021, only 36 judgments had been issued in such cases at the national level.

In this context, the case of Claudia has become paradigmatic as it is one of a handful of cases where the authorities have managed to identify potential perpetrators; it is the only one in Oaxaca state where ex-public servants have been convicted for enforced disappearance, it is one of the few where institutions have collaborated effectively and efficiently. It is a case that can bring hope to other families seeking justice for their loved ones.

The Mexican legal system has gone through significant reforms. A new oral and adversarial system was enacted in 2016. It aims at impartiality in judging, based on claims and allegations of the parties, where the court in charge of the case should not take a position in the litigation.

The reality is that the system is overwhelmed, under-resourced, under-prepared, and Covid-19 exacerbated the backlog in the cases going through the courts.

In the case of Claudia, several issues were documented. Instead of three judges, only one was appointed (in the Mexican legal system, there is no jury). The case was not heard publicly since the judge decided to hear it behind doors. Against the spirit and the guidance for the proceedings, no gender perspective was adopted. Claudia's family felt impartiality was only an aspiration since it appeared the judge sided with the defence most of the time. The idea of implementing cutting-edge scientific technology and forensic evidence during the investigation stage remains a goal to be achieved; on the ground, entrenched bad practice and corruption was experienced, as well as lack of knowledge, expertise, facilities, tools, and resources.

Currently, the legal proceedings are ongoing; the legal representation of the accused has filed several appeals against the sentences given.

While the legal process is ongoing and despite some attempts to search for Claudia, sadly, she has not been found. The Mexican National Searching Commission and Oaxaca police authorities are failing to fulfil their obligations to presume life and to continue investigating her disappearance and searching for her.

In Mexico, access to justice for women and their families is still restricted by gender barriers and entrenched stereotypes. Impunity is a structural feature that is conducive to the recurrence of acts of enforced disappearance. It is also a factor that contributes to revictimization and undermines the impact of any initiative to eradicate and prevent enforced disappearance.

In the case of Claudia Uruchurtu, the risk is now that without the ongoing support of the international community, corruption and political interference could undo the progress achieved and prevent the impartial application of the law and deny access to justice and truth.

Recommendations

On this basis, Liberation, requests the United Nations, Human Rights Council, and the Office of the High Commissioner to:

- Ensure access to a fair legal process for Claudia Uruchurtu which will support the office's aims to promote the freedom of peaceful assembly and of association. It will also reinforce the United Nation's aim to eradicate violence against women and to guarantee access to justice for victims of forced disappearances. A gender perspective is much needed in the defence of human rights.
 - Request the Human Rights Council to urge the Mexican state to fulfil their obligation in the investigation and search for Claudia Uruchurtu.
 - Call for Mexico to promote the development of the legal system, including tools, practices, and the eradication impunity and corruption by public officials, to ensure free and unequivocal access to justice for victims of enforced disappearances.
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