

**PRESS CONFERENCE: Friday, January 25, 2008 at 11 a.m.**

**Asociación de Corresponsales de Prensa Extranjera  
C/ Monte Esquinza 41, 1º D, Madrid, Spain**

## **Complaint Filed with Spain's National Court (Audiencia Nacional) for the Torture of a Spanish Citizen by Police in Mexico**

**This criminal complaint arises from what is known as the "Atenco Case," where a police crackdown resulted in severe human rights violations in Mexico in 2006; the accused include federal, state and municipal police. As part of the repression, Cristina Valls, a Spanish citizen, was detained and subjected to various forms of torture including sexual assault and rape.**

Madrid, Spain, January 25, 2008 - Women's Link Worldwide, the organization representing the plaintiff, is filing a criminal complaint before the Audiencia Nacional of Spain arguing that Spanish law grants jurisdiction to Spanish courts to investigate and try crimes found in international treaties and covenants ratified by Spain, regardless of where the crime occurred.

The complaint explains that the case can be tried in a Spanish court because Spain signed and ratified the Convention Against Torture in 1987. The complaint also argues for the application of decision 237/2005 of the Spanish Constitutional Tribunal, which establishes that the only requisite to begin proceedings and investigate a serious crime is that the accused has not been acquitted, pardoned or sentenced in another jurisdiction for the same facts and with regards to the same persons.

### **Background**

On May 3, 2006, over 3,000 police officers forcibly ended civilians' demonstrations in the town of Texcoco, and then extended the crackdown on May 4 to nearby Atenco. The police surrounded the town, arrested demonstrators and conducted illegal searches in homes and arrests. The resulting abuse, torture and other rights violations became known as the "Atenco Case."

As a result of the events, about 200 people were detained, many of whom reported that they were physically and psychologically tortured. Most of the women that were arrested alleged they had been raped and sexually assaulted as part of the torture to which they were subjected. The majority of the torture was committed during the bus ride to the detention center where they were taken (Santiaguito Prison), which lasted six hours (under normal conditions the journey would take only two hours.) Cristina Valls was detained until May 5, when she was summarily expelled from the country and prohibited from returning to Mexican territory for five years.

### **Speaking at the press conference:**

- **Viviana Waisman**, attorney and executive director of Women's Link Worldwide
- **Cristina Valls**, plaintiff
- **Paloma Soria**, attorney filing the complaint and staff member of Women's Link Worldwide
- **Carlos Slepoy**, attorney for Acusación Popular in proceedings on crimes committed under the dictatorships of Argentina, Chile and Guatemala, currently before the Audiencia Nacional
- **Manuel Ollé**, president of the Human Rights Association of Spain and attorney for Acusación Popular in proceedings on crimes committed under the dictatorships of Argentina, Chile and Guatemala, currently before the Audiencia Nacional

**A press kit will be provided with relevant information about the complaint after the press conference.**

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## The Facts of the Case

On May 3, 2006 a conflict erupted between the authorities of the State of Mexico and individuals and Mexican organizations working for the social rights of the agricultural workers of the municipalities of Texcoco and Atenco. The first police repression occurred in Texcoco and then later in the nearby town of Atenco. About 100 people were detained on the first day.

On May 4, at approximately 6 a.m., about 3,000 officers of the Federal Preventive Police, the Mexico State Police, and the Municipal Police forces of Texcoco and Atenco surrounded the small town of Atenco. Police used extreme violence against the demonstrators and townspeople and illegally searched homes, mistreating the inhabitants. During the crackdown, Spanish citizen **Cristina Valls**, who was in town to express solidarity with the local population, was arrested. By the end of the operation, another 100 people had been detained, many of whom had not been a part of the clashes between police and demonstrators in Texcoco the previous day.

Everyone who was detained in Atenco reported that they were tortured during their transfer, in buses, to the Santiaguito Prevention and Re-adaptation Center. They were forced to lie handcuffed on the floor of the vehicles while police officers walked on them, beat them and verbally abused them. The complaint filed before the Audiencia Nacional (National Court) in Spain focuses on this bus ride, which lasted six hours, when under normal circumstances it takes about two. **Most of the women in the buses have stated that, like Cristina Valls, they were raped and sexually assaulted.**

The detainees included five foreign nationals: a Chilean man and woman, a German woman, and two Spanish women. After being detained for several hours, these five people, including Cristina Valls, were subjected to a summary expulsion process and were deported from Mexico on May 5<sup>th</sup> and prohibited from reentering the country for five years. These expulsion proceedings did not comply with the minimum mandatory legal standards.

## The Crime of Torture

Women's Link Worldwide, on behalf of Spanish citizen **Cristina Valls**, is filing a criminal complaint before the Audiencia Nacional of Spain (National Court) against different Mexican authorities for the crime of **torture**, including rape and sexual assault.

The facts in the complaint fall under the definition of torture established under the **Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment**, adopted in 1984 by the United Nations General Assembly, which Spain signed and ratified. The convention states:

*"[T]he term 'torture' means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is 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. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."*

Additionally, the facts of this case constitute torture according to article 174 of the Spanish Criminal Code:

*"Torture is committed by an authority or public officer who, abusing his/her position, and with the purpose of obtaining a confession or information from any person, or of punishing him/her for any act that s/he committed or is suspected of having committed, or for any reason based on any kind of discrimination, subjects him/her to conditions or procedures that by their nature, duration or other circumstances, cause physical or mental suffering, the suppression or decrease of his/her cognitive, intellectual, or decision-making skills, or that in any other way go against his/her moral integrity."*

The complaint highlights that the substantial international case law that **has consolidated the legal reasoning by which rape and sexual violence committed by law enforcement officials constitute the crime of torture.**

Several decisions of the International Criminal Tribunals created to try crimes committed during the armed conflicts in the former Yugoslavia (ICTY) and Rwanda (ICTR) have depended on such legal reasoning. Case law issued by both tribunals recognizes rape crimes as torture. For example:

*"Like torture, rape is used for such purposes as intimidation, degradation, humiliation, discrimination, punishment, control or destruction of a person. Like 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."* **Akayesu Case before the ICTR**

The European Court of Human Rights, the Inter-American Court and Commission on Human Rights and the UN Committee Against Torture coincide in ruling that rape and sexual assault constitute torture.

## Why the Complaint Has Been Filed before the Audiencia Nacional in Spain

The criminal complaint, alleging the torture of Spanish citizen Cristina Valls by Mexican officials, was filed with the Audiencia Nacional (National Court) in Spain for two different but complementary reasons.

First, the plaintiff, **Cristina Valls**, was expelled in an irregular procedure from Mexico in 2006 and prohibited from returning for five years, thus preventing her from filing a complaint with the Mexican legal system and leaving her with no redress in Mexico for the serious crimes committed against her.

Second, the complaint requests that the Audiencia Nacional consider this case under the principle of universal jurisdiction established by the Judiciary's Organic Act of 1985. Article 23.4 of the act grants jurisdiction to Spanish courts to investigate and try certain crimes, such as torture, based on the international treaties or covenants to which Spain is a signatory. Spain signed and ratified the Convention Against Torture in 1987.

Under this principle, the court's jurisdiction is not limited by the place in which the crime occurred, nor by the nationality of the victim or of the accused. Rather jurisdiction is determined by the nature and characteristics of the crime committed. Additionally, decision 237/2005 issued by Spain's Constitutional Tribunal establishes the principle of absolute universal jurisdiction stating that the only requisite for a Spanish court to hold proceedings in a matter that can be internationally prosecuted is that the accused has not been acquitted, pardoned or sentenced in another jurisdiction for the same facts and with regard to the same persons.

The principle of universal jurisdiction is founded in supranational legally protected values that the international community and national governments have committed to protecting. For example, it is understood that crimes such as genocide, crimes against humanity, torture and, in general, all those crimes that seriously violate human rights, are subjected to universal prosecution and that perpetrators should be held accountable for their crimes.

The Spanish judicial system's interpretation of international criminal law is progressive. It relies on extensive case law arising from judicial proceedings to prosecute crimes committed in violation of human rights during the Chilean, Argentine and Guatemalan dictatorships.

## Women's Link Worldwide

Women's Link Worldwide is an international organization that promotes gender equality through the implementation of international human rights law and strategic litigation. One of Women's Link's areas of work is gender violence, which was clearly involved in the San Salvador Atenco case, where police officers used sexual assault and rape to torture the women they had detained, including our client.

In addition to gender violence, Women's Link thematic areas include: gender discrimination and sexual and reproductive rights. Its work is organized in three programs:

**Gender Justice Observatory:** A web-based, interactive database of important decisions from national, regional and international courts and tribunals and of strategies to work with courts and tribunals on issues related to sexual and reproductive rights, gender discrimination and gender violence. The program also promotes the training and mentoring of young professionals through internships in our offices in Bogotá, Colombia and Madrid, Spain.

**Gender Equality without Borders:** Fact-finding projects and legal challenges in cases of women in especially risky situations related to migration, asylum, gender-based persecution, trafficking in persons, and other forms of human rights violations.

**Sexual and Reproductive Rights: From Paper to Reality:** Technical assistance and assistance implementing legal decisions to guarantee sexual and reproductive rights in different countries including Colombia, Mexico, Nicaragua, and Trinidad and Tobago.

For more information visit [www.womenslinkworldwide.org](http://www.womenslinkworldwide.org)