



# THE ALVARADO CASE: EMBLEMATIC FORCED DISAPPEARANCE IN MEXICO

#MILITARIZATION TO COURT

BRIEF



COSYDDHAC



COMISIÓN DE SOLIDARIDAD Y DEFENSA  
DE LOS DERECHOS HUMANOS A.C.

# ALVARADO ESPINOZA AND OTHERS VS. MEXICO CASE

## Public hearing before the Inter-American Court of Human Rights



April 26 2018  
April 27 2018



9:00 to 18:30 hrs.  
starting at 9:00 hrs.

During the 123rd Regular Period of Sessions of the Inter-American Court



Court Headquarters in San José, Costa Rica  
Avenida 10, Calles 45 y 47 Los Yoses,  
San Pedro, San José, Costa Rica



Live broadcast at:  
[www.corteidh.or.cr](http://www.corteidh.or.cr)

### Eyewitnesses in the hearing

The Inter-American Court will hear **María de Jesús Alvarado Espinoza and Jaime Alvarado Herrera**, relatives of the three disappeared individuals, who will make a statement about the events and the human rights violations related to the case, the search actions conducted by the relatives, the demand for justice, and the harassment, threats and violence against their relatives, which has led them to displace from their usual place of residence. After the events, 15 people of Nitza's family core are in the United States requesting political asylum.

In addition to this, the Inter-American Court will hear **Salvador Salazar Gutiérrez**, who will make a statement about the sociological context related to the Operativo Conjunto Chihuahua (Joint Operation Chihuahua) and the particular characteristics of the forms of violence that took place in the moment of the alleged forced disappearance of the alleged victims, especially in the region where the events occurred.

By the Mexican State, **Carlos Rodríguez Ulloa** will provide expert witness testimony about the context of organized crime in the State of Chihuahua during the time of the events in this case. He will also analyze the actions such groups have developed to affect the general population and avoid the action of justice, emphasizing their use of apocryphal uniforms of security corporations.

Finally the expert witness of the Inter-American Commission on Human Rights (IACHR) **Federico Andreu Guzmán** will make a statement about the limits and safeguards imposed by the international obligations of the States in the context of the fight against organized crime, including drug trafficking; the risks and implications of assigning public functions to the military and its regulation in the region compared between

the time of the events and today; the context of forced disappearance in Mexico current at the time the events started and that continues to date and the denial of the Mexican State, and finally about the factors that lead to impunity in this kind of actions, both in the events and in the investigations conducted in the concrete case.

## Case Summary

The events occurred within the framework of the so called “War on Drugs”, declared on December 10, 2006 by the then president of Mexico, Felipe Calderón Hinojosa. This strategy privileged the participation of the Armed Forces in law enforcement, and it has continued during the administration of President Enrique Peña Nieto.

Concretely in the state of Chihuahua, it was implemented the Operativo Conjunto Chihuahua (Chihuahua Joint Operation) in March 2008 and it consisted in the arrival of more than 2000 members of the Mexican Army and some elements of the Federal Police to take over law enforcement. With this operation, the violence did not decrease but actually had an exponential increase in homicides, and there were allegations of thousands of human rights violations cases.

In the Ejido Benito Juárez, in the municipality of Buenaventura, around 8:00 AM on December **29, 2009**, **Nitza Paola Alvarado Herrera and José Ángel Alvarado Herrera** (first cousins) were aboard a pickup truck just outside of José Ángel's mother in-law, when a group of eight to ten soldiers with heavy weapons got off two non-official vehicles, and forced them to get on the vehicles. Their destination was never known.

**Rocío Irene Alvarado Reyes was in her mother's house in the same Ejido. She was sleeping, as well as her mother, her 11 and 13 year old siblings, and her 2 year old child when a few minutes later the arbitrary detention of Nitza Paola and José Ángel, a convoy of soldiers broke into that house, destroying property, looking for Rocío Irene (Nitza and José's niece), without providing an indication to her mother or her younger siblings, they proceeded to arrest her and took her into a truck with the same characteristics of the one in Nitza Paola and José Ángel's detention.**

### Instances that have heard about the events:

- Two complaints before the State of Chihuahua Attorney General's Office.
- Complaint in Mexico's Human Rights Commission.
- Complaint before Mexico's Attorney General Office.
- FEVIMTRA and Search Unit for Disappeared Individuals.
- Amparo Lawsuits.
- IACHR: precautionary measures and request (lawsuit).
- United Nations Working.
- Group on Enforced or Involuntary Disappearances.
- Among many other actions.

## International Process

### ■ Process to investigate their fate

Starting from an urgent communication, on January 8, 2010 the IACR received information about the disappearance of Nitza Paola Alvarado Espinoza, Rocío Irene Alvarado Reyes and José Ángel Alvarado Herrera, and under the provisions of the Inter-American Convention on Forced Disappearance of Persons, requested urgent information to the Mexican State.

On March 4, 2010 after a request, the IACR adopted precautionary measures in favor of Rocío Irene Alvarado Reyes, Nitza Paola Alvarado Espinoza and José Ángel Alvarado Herrera, demanding the Mexican State to report their whereabouts, their health condition and their safety. Also, they were requested to report on the actions conducted by the authorities to investigate the events that motivated the adoption of the precautionary measures and to clarify them.

Given that the State did not comply with the precautionary measures, the IACR requested to the Inter-American Court the adoption of provisional measures, adopted on May 26, 2010 in favor of the three disappeared individuals. This was the first case in Mexico in which the Inter-American Court issues provisional measures specifically for disappeared individuals.

Due to the harassment, abuse and threats suffered by the families the Inter-American Court has extended the provisional measures two times in favor of the 34 relatives and one of their representatives.

### ■ Case before the IACR

On June 26, 2011, the request (lawsuit) was filed before the IACR with the purpose of examining the violations to human rights established in the Inter-American Convention, in relation to the Inter-American Convention on Forced Disappearance of Persons, as well as the Belém do Pará Convention. On August 5, 2013, the IACR notified the parties on the admissibility report.

8 years after the initial request was submitted, and after a disputed process where the parties had ample opportunities to submit allegations and evidence, the IACR issued its background report No. 3/16 in April 2016.

On November 9, 2016, the IACR forwarded to the Inter-American Court the case of Nitza Paola Alvarado Espinoza, Rocío Irene Alvarado Reyes and José Ángel Alvarado Herrera and others vs. Mexico.

The IACR's decision was a consequence of the failure of the Mexican State to comply with the recommendations established in the background report, in particular the duty of investigating with due diligence in relation to the search of disappeared victims, such as the clarification and the individualization and sanction of the responsible parties; in addition to this, in relation to the violation of the human rights of relatives derived from threats and harassment against them, and the forced displacement of some of them.

In its background report the IACR issued the following recommendations to the Mexican State: to investigate the whereabouts of the victims, investigate the disappearance and identify the responsible parties, redress the violations including an act of acknowledgement of responsibility, sanction those who hindered the investigation and adopt measures to avoid repetition, among them administrative and legislative measures to respond to the problem of forced disappearance in Mexico, especially in Chihuahua.

Also, the case is also related to the situation of impunity in which the three cases of disappearance are currently found. The application of military justice in this case was a violation of the right to have a competent, independent and impartial authority administering justice. Also the State failed in complying with the determination of the IACHR respect of the deprivation of freedom of José Ángel, Nitza Paola and Rocío Irene by elements of the army, based on contextual elements, eyewitnesses, statements of public officials who stated they had information that the victims were under the custody of the State, among other elements, in addition to several reports of different organizations that considered that there were sufficient indications about the participation of the Army. Also, when the relatives filed a complaint about the events and requested information, they received the answer that there was no information available, neither of their arrest or of their whereabouts, and mechanisms for concealment were activated. Based on the above, the IACHR qualified the events as a forced disappearance.

After the written process in the case, the Inter-American Court decided to summon the parties in this process to a public hearing about the case background, redress, and costs, which will be held on the next April 26 and 27, 2018 before the relatives of Nitza, Rocío, José Ángel and the society.

For the relatives and their representatives, this is a historical opportunity to start the construction of a reliable justice system that initiates the recognition of the responsibility of the State in these events, that in itself is a form of redress in the face of the constant denial of the events of the disappearance, where the redress measures may alleviate a little the impact suffered by the relatives. In addition to this the resolution will address or order an adjustment of the government structure in order to have an effective response to the cases of disappearance and to provide attention to the relatives.

## **Failure of the Mexican State to have adequate investigation and provide due diligence**

- 1** The State did not conduct diligences oriented towards finding the disappeared victims alive.
- 2** The State conducted scarce and deficient diligences for human remains.
- 3** The management of the investigation process was in itself a serious obstacle to obtain access to justice. The investigation was fragmented and during a few days was exclusive of military personnel.
- 4** In many occasions it was intended to place the responsibility for the progress of the investigations on the family.

This case proves the different impacts of the disappearance of people on children and adults, the multidimensional economic, social and familiar consequences of a case of disappearance.

For the relatives of this case the resolution will be a recognition of their fight and the more than 35,000 families that demand proper and proportionate measures for the problem of disappearance in Mexico. In addition to this, it will dignify and acknowledge that the families were not wrong and that it was the Army which caused the disappearance of their relatives.

This will be the first resolution that addresses the negative consequences of militarization as strategy for the fight against organized crime, tackling the problem of forced displacement in Mexico that is increasingly expanding in the country, for there are no proper policies, and there are many risks and obstacles for the families to try to find their loved ones and to try to find justice for their case. Finally, this resolution may be a statement about the relevance of a proper implementation of a Law on Enforced Disappearance and on the human rights violations generated by the Law of Internal Security (Ley de Seguridad Interior).