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Mexico: Arbitrary detention and physical attacks against indigenous defenders

On 15 October 2020, indigenous defenders **José Luis Gutiérrez** and **César Hernández** were arbitrarily detained during a violent police operation aimed at dispersing a peaceful demonstration at Crucero de Temo, in the municipality of Chilón, Chiapas.

[José Luis Gutiérrez](#) and [César Hernández](#), from the San Sebastián Bachajón community also in Chilón are Maya Tseltal indigenous defenders and farmers. They have spent most of their lives defending their rights to and use of their ancestral land, particularly against the construction of mega projects and other large infrastructure projects.

On 15 October 2020, indigenous defenders José Luis Gutiérrez and César Hernández were arbitrarily detained during a violent police operation led by around 300 officers from the State, Municipal and Sector Police along with the National Guard. The police officers aimed to disperse a [peaceful demonstration taking place against the construction of a National Guard \(GN\) station](#), which was taking place at Crucero de Temó along the Ocosingo-Palenque highway, in the municipality of Chilón, Chiapas. During the operation, the defender [Juan Hernández](#), was pursued by the police and was forced to flee and take shelter for four days in a safe place. Before their detention, the three indigenous defenders marched with dozens of peasants from various communities on the Ocosingo-Palenque highway, carrying a canvas with the legend "No to the National Guard".

A [video](#) published by an independent media outlet shows the excessive and unjustified use of force during the arbitrary arrest of José Luis Gutiérrez and César Hernández. A number of hours after the arrest, the officials from the Public Security Secretariat seized the vehicle and the mobile phone belonging to José Luis Gutiérrez. Later on 15 October 2020, José Luis Gutiérrez and César Hernández were presented before the Indigenous Justice Prosecutor's Office of the Public Ministry in the municipality of Ocosingo, where they were accused of "rioting".

The Court's Secretary for Settlements refused to allow the defense attorneys, who are members of the Fray Bartolomé de las Casas Centre for Human Rights (Frayba), to access the investigation files, and would not accept any documentation they tried to submit on rights violations related to the case. The lawyers were eventually forced to leave under the intimidatory presence of police officers who monitored their movements in the court building throughout their visit.

On 16 October 2020, José Luis Gutiérrez and César Hernández were transferred to the State Center for Social Reintegration for Sentenced Persons in Ocosingo, State of Chiapas. The transfer goes against new procedural rules of the Mexican criminal justice system, having taken place before the expiration of the 48-hour period given to a Control Judge to determine whether there is sufficient legal basis to proceed with a judicial process, in the absence of which they must be released. At the detention centre, the Court's Secretary for Settlements refused to allow the defense attorneys, who are members of the Fray Bartolomé de las Casas Centre for Human Rights (Frayba), to access the investigation files, and would not accept any documentation they tried to submit on rights violations related to the case. The lawyers were forced to leave under the intimidating presence of policemen who monitored their movements in the courthouse during their visit. Eventually, the Secretary of Agreements decided to cancel the hearing and requested the transfer of the defenders to the Control Court of Cintapala, at the State Center for Social Reintegration of Sentenced Persons number 14, "El Amate".

On 17 October 2020 at 11:00 am, relatives of the detainees, community members of San Sebastian and San Jerónimo, and lawyers from Frayba peacefully demonstrated outside the buildings of the Indigenous Justice Prosecutor's Office in Ocosingo, Chiapas, in opposition to the arbitrary detention of the defenders and transfer to a detention facility with irregularities in due process.

On the same day at 1:50 pm, a hearing was held where the Control Judge deemed the arrest to be lawful and ruled that José Luis Gutiérrez and César Hernández should remain in preventive detention in "El Amate". On 22 October 2020 at 11:00 am, a new hearing will be convened where it will be decided whether charges will be formally brought against the accused.

In prison, José Luis Gutiérrez and César Hernández have reported that they fear being forced to pay a sum of money so that prison officers do not beat them. Frayba has [previously reported](#) on imprisoned defenders' exposure to cruel and inhuman treatment by guards and other prisoners who, with the consent of the directors, extort and subject them to forced labour.

Front Line Defenders expresses serious concern about the arbitrary detention and false charges brought against José Luis Gutiérrez and César Hernández. It is particularly concerned for their physical and psychological integrity following the violent attacks to which they were subjected by the authorities. Furthermore, Front Line Defenders expresses its deep concern about the violation of due process during and after the detention of the defenders, where the defenders were not permitted to adequately defend themselves against the crime the charges they face.

Front Line Defenders believes that the attacks and detention against José Luis Gutiérrez and César Hernández are part of a broader strategy of harassment and violence against defenders of land and indigenous peoples' rights. In particular it believes that the use of fabricated crimes has become an effective strategy to intimidate those who work to protect human rights in Mexico.

Front Line Defenders urges the authorities in Mexico to:

1. Immediately release and drop the charges against the defenders José Luis Gutiérrez and César Hernández and guarantee the legal defense work of the members of the Frayba;
2. Guarantee due process in the legal proceedings carried out against defenders and that their treatment in detention adheres to the conditions established in the 'Set of principles for the protection of all persons under any form of detention or prison' ', adopted by resolution 43/173 of the UN General Assembly of December 9, 1988;
3. Guarantee that all human rights defenders, in the development of their legitimate activities, including the right to protest in defense of human rights, can operate freely without fear of criminalisation or police brutality in Mexico.