

Mexico

Among Mexico's most serious human rights problems are those affecting its criminal justice system. Persons under arrest or imprisonment face torture and ill-treatment, and law enforcement officials often neglect to investigate and prosecute those responsible for human rights violations.

The presidency of Vicente Fox ended in 2006 with the ambitious human rights agenda that he had brought to office left largely unfulfilled. While the Fox administration succeeded in promoting greater transparency in government, including greater receptivity to international scrutiny of Mexico's human rights practices, the administration made little progress in curbing longstanding abusive practices. When Fox stepped down, the Special Prosecutor's Office that he created in 2001 to address past atrocities had yet to win a single conviction and his comprehensive 2004 proposal to reform the justice system had not been passed by Mexico's Congress.

Police Brutality, Torture, and Pretrial Detention

Mexican police forces routinely employ excessive force when carrying out crowd-control operations. In April 2006, for example, during a police intervention to disperse a miner's strike in Lazaro Cardenas, police forces killed two workers and injured dozens. In May, while dispersing demonstrators in San Salvador de Atenco, police officers killed two people, including one teenager, and arbitrarily detained, beat, and kicked demonstrators. Police also sexually harassed women while they were being transported to a penitentiary.

Torture remains a widespread problem within the Mexican criminal justice system. One perpetuating factor of the practice is the acceptance by some judges of evidence obtained through torture and other mistreatment. Another is the failure to investigate and prosecute most cases of torture.

Over 40 percent of prisoners in Mexico have never been convicted of a crime. Rather, they are held in pretrial detention, often waiting years for trial. The excessive use of pretrial detention contributes to overcrowding in prisons. Prison inmates are also subject to abuses, including extortion by guards and the imposition of solitary confinement for indefinite periods of time. Foreign migrants are especially vulnerable to such abuses.

The justice reform proposal presented by President Fox in 2004 included measures aimed at addressing these chronic abuses. Only a few reforms were adopted and at this writing Congress has yet to vote on most measures addressing the critical problems of torture and pretrial detention.

In a positive development, Congress passed a constitutional reform in December 2005 that forces all jurisdictions to make their juvenile justice systems compatible with human rights norms.

Impunity

The criminal justice system routinely fails to provide justice to victims of violent crime and human rights abuses. The causes of this failure are varied and include corruption, inadequate training and resources, and a lack of political will.

The failure for over a decade to resolve the murders of hundreds of young women and girls in Ciudad Juarez, in Chihuahua state, offers a paradigmatic example of impunity in Mexico. Several individuals facing charges for some of the Juarez killings recanted confessions that they claim were coerced through torture. In one of these cases, David Meza, who in 2003 had confessed under torture that he had murdered his cousin, recanted and was acquitted in June 2006. His cousin's murder has not yet been solved. A shift in policy by the state prosecutor's office in 2004 has led to better investigations of these cases, however.

A major shortcoming of the Mexican justice system is that it leaves the task of investigating and prosecuting army abuses to military authorities. The military justice system is ill-equipped for such tasks. It lacks the independence necessary to carry out reliable investigations and its operations suffer from a general absence of

transparency. The ability of military prosecutors to investigate army abuses is further undermined by a fear of the army, which is widespread in many rural communities and which inhibits civilian victims and witnesses from providing information to military authorities.

The Special Prosecutor's Office

The Special Prosecutor's Office that President Fox established in 2001 to address past abuses has produced limited results. Its initial advances—such as the November 2003 landmark decision from the Mexican Supreme Court holding that statutes of limitations do not apply to old “disappearance” cases as long as the victims' bodies have not been found—have been counterbalanced by significant failures.

The special prosecutor has made only limited progress in uncovering the fate of hundreds of people who were “disappeared” in the 1970s. His most ambitious move—the indictment of former president Luis Echeverria for genocide—was thrown out by the courts. The few cases in which the special prosecutor managed to indict those responsible for forced disappearances were dismissed by courts after Congress modified the federal criminal code in June 2006. There have thus far been no convictions related to the crimes committed during Mexico's “dirty war.”

The Special Prosecutor's Office produced a draft report on past abuses which shows there is extensive documentation in government archives implicating former officials and military officers in the “dirty war” crimes. However, far more information could have been collected if a more thorough investigation had been carried out. The draft was leaked to the press in February 2006, but the report still has not been officially published at this writing.

Domestic Violence and Sexual Abuse

Mexican laws do not adequately protect women and girls against domestic violence and sexual abuse. Some laws on violence against women run directly counter to international standards, including provisions of Mexican law that define sanctions for some sexual offenses with reference to the “chastity” of the victim and provisions penalizing domestic violence only when the victim has been battered repeatedly. Legal protections that do exist are often not enforced vigorously. As a result, victims are often

reluctant to report crimes and such underreporting in turn undercuts pressure for necessary legal reforms. The net effect is that sexual and domestic violence against women and girls continues to be rampant and shrouded in impunity.

Girls and women who report rape or violence to the authorities are generally met with suspicion, apathy, and disrespect. For pregnant rape victims who want to terminate their imposed pregnancy—as they are legally entitled to do in Mexico—this reaction is even more pronounced. They are ignored or actively silenced in disregard of their human dignity and their rights to nondiscrimination, due process, and equality under the law.

In 2006, both the United Nations Committee on Economic, Social and Cultural Rights and the United Nations Committee on the Elimination of Discrimination against Women reiterated previous calls on Mexico to prevent and punish violence against women, and to provide adequate access to safe abortion services for rape victims.

Freedom of Expression

Journalists—particularly those who have investigated drug trafficking or have been critical of state governments—have occasionally faced harassment and attacks. In February 2006, unidentified individuals attacked the newspaper *El Manana* in Nuevo Laredo, damaging the installations and wounding a journalist. A photographer was gunned down in Michoacan in March 2006, and a journalist was killed in Chihuahua in August 2006. In February 2006, the federal government created a special prosecutor's office to investigate crimes committed against journalists.

Mexican defamation laws continue to be excessively restrictive and tend to undermine freedom of expression. Besides monetary penalties, journalists are subject to criminal prosecution for alleged defamation of public officials. In December 2005, Lydia Cacho was arrested because she had supposedly failed to answer a court summons in a defamation case against her. Cacho is being criminally prosecuted for the publication of a book that describes a child prostitution ring that, according to her, operated with the complicity of local police and politicians. In March 2006, Isabel Arvide was convicted for defamation in relation to an article published in 2001 on the involvement of state government officials in a drug cartel in

Chihuahua. She received a one-year prison sentence (which the judge suspended) and was ordered to pay a fine of approximately US\$18,000.

Access to Information

A 2002 federal law on transparency and access to information increased avenues for public scrutiny of the federal government. However, there is still considerable risk that secrecy will reassert itself in the future: the federal agency in charge of applying the law to the executive has not been granted autonomy from the executive branch, remains vulnerable to political interference, and has encountered resistance from several key government agencies. The progress made in promoting transparency within the executive branch has not been matched in other branches of government nor in the autonomous state institutions.

Labor Rights

Legitimate labor-organizing activity continues to be obstructed by collective bargaining agreements negotiated between management and pro-management unions. These agreements often fail to provide worker benefits beyond the minimums mandated by Mexican legislation. Workers who seek to form independent unions risk losing their jobs, as inadequate laws and poor enforcement generally fail to protect them from retaliatory dismissals.

Right to Education

A chronic concern in Mexico is the government's failure to ensure that tens of thousands of rural children receive primary education during the months that their families migrate across state lines to work in agricultural camps. A large number of parents decide to take their children to work with them in the fields rather than attend school during these months. This decision is largely due to economic conditions, as well as to the government's failure to enforce child labor laws. Although there is a federal program to provide primary schooling in the agricultural camps, the classes are generally offered in the evening, when children are too exhausted from their work to study.

Key International Actors

As part of a Technical Cooperation Agreement signed by President Fox, the United Nations High Commissioner for Human Rights maintains an in-country office that, in December 2003, produced a comprehensive report which documented ongoing human rights problems and provided detailed recommendations for addressing them. Based on this report, the administration initiated a national human rights program. In December 2005, the administration established a committee with representatives from the government and civil society to monitor implementation of the program.

Along with the United States and Canada, Mexico is party to the North American Free Trade Agreement and its labor side accord. This accord commits the three countries to enforcing their laws protecting workers' rights, and creates a complaints mechanism whereby, in principle, each has the authority to hold the others accountable for any failures to do so. However, because the complaint process is convoluted and enforcement mechanisms are weak, the accord has had little impact on labor rights violations in Mexico.

Mexico has maintained its leading role in promoting human rights at the international level. In June 2006 Mexico became the first country to preside over the newly formed United Nations Human Rights Council.