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country summary

## Mexico

Mexico's criminal justice system continues to be plagued by human rights problems. Persons under arrest or imprisoned face torture and ill-treatment. Law enforcement officials often neglect to investigate and prosecute those responsible for human rights violations, including those committed during Mexico's "dirty war" and abuses perpetrated nowadays during law enforcement operations. Mexico lacks adequate legal protections for women and girls against violence and sexual abuse.

### Criminal Justice System

The criminal justice system routinely fails to provide justice to victims of violent crime and human rights violations. The causes of this failure are varied and include corruption, inadequate training and resources, and abusive policing practices.

Torture remains a widespread problem within the Mexican criminal justice system. One perpetuating factor 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 prison overcrowding. Prison inmates are also subject to abuses including extortion by guards and the imposition of solitary confinement for indefinite periods. Foreign migrants are especially vulnerable to such abuses.

In March 2007 President Felipe Calderon presented a constitutional reform proposal aimed at strengthening the ability of prosecutors to combat organized crime. The proposal creates serious exceptions to basic due process guarantees, including allowing prosecutors to adopt precautionary measures—such as administrative

detention, home searches, and phone tapping—without previous judicial authorization. At this writing the proposal is being debated in Congress.

A major shortcoming of the Mexican justice system is that it routinely 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.

### **Abuses by Security Forces**

Mexican police forces routinely employ excessive force when carrying out crowd-control operations. In July 2007 a protest march ended in a violent confrontation with police in Oaxaca's state capital. The police fired teargas canisters, and marchers and police attacked each other with stones. Human Rights Watch received credible reports that police carried out arbitrary arrests, including pulling people from passing cars and buses, and beat those in custody. These events followed sporadic violent clashes that began in June 2006 in connection with a teachers' strike; during those clashes state and federal police forces used force excessively.

Over the past year Mexican soldiers have committed egregious abuses while engaged in law enforcement activities. According to the national human rights ombudsman, in May 2007, for example, soldiers arbitrarily detained 65 people in Michoacán state, holding some incommunicado at a military base, beating many of the detainees, and raping four minors. That same month soldiers in Michoacán arbitrarily detained eight people, keeping them incommunicado at a military base where they beat and covered the heads of four of them with plastic bags. In June soldiers opened fire on a truck in Sinaloa, killing five people, including three children, and injuring three others.

### **Impunity for "Dirty War" Crimes**

In March 2007 President Calderon officially closed the Special Prosecutor's Office

that former President Vicente Fox had established to address abuses committed during the country's "dirty war" in the 1960s, '70s and '80s. During its five-year existence the office made very limited progress in investigating and prosecuting these crimes. Its initial advances—such as the 2003 Supreme Court ruling authorizing prosecution of decades-old "disappearance" cases—were offset by significant failures. It did not obtain a single criminal conviction. Of the more than 600 "disappearance" cases, it filed charges in 16 cases and obtained indictments in nine; the office determined the whereabouts of only six "disappeared" individuals. At this writing only the genocide charge against former President Luis Echeverria for his responsibility in the 1968 massacre of student protestors remains pending before the courts.

### **Reproductive Rights, 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 penalize domestic violence only when the victim has been battered repeatedly. Legal protections that do exist are often not enforced vigorously. Girls and women who report rape or violence to the authorities are generally met with suspicion, apathy, and disrespect. 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.

In April 2007 the Mexico City legislature legalized abortion in the first 12 weeks of pregnancy. Abortion continues to be criminalized in the rest of Mexico, though every federal state in the country allows abortion in certain specific circumstances, including after rape. Yet pregnant rape victims who seek to terminate their imposed pregnancy are often thwarted from doing so by the dismissive and even hostile treatment they receive from authorities, in disregard for their rights to non-discrimination, due process, and equality under the law.

## **Freedom of Expression**

Journalists, particularly those who have investigated drug trafficking or have been critical of state governments, have faced harassment and attacks. In April 2007 a journalist was shot dead in Acapulco, another in Sonora received death threats and was beaten unconscious, and a third in Chihuahua was kidnapped and found dead a week later. In October three media workers from a newspaper in Oaxaca were shot and killed. Five Mexican journalists have gone missing since 2005, including four who had reported on drug trafficking or organized crime.

In March 2007 the Mexican Congress passed a law that decriminalizes defamation, libel, and slander at the federal level. However, at the state level 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.

## **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. 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 have them attend school during these months. This decision is largely due to economic conditions, and 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**

The United Nations High Commissioner for Human Rights maintains an in-country office that, in December 2003, produced a comprehensive report documenting ongoing human rights problems and providing detailed recommendations for addressing them. The office is now working on an assessment of human rights problems in Mexico City and the state of Guerrero.

In August 2007 the Inter-American Commission on Human Rights held that Mexico was responsible for the detention, torture, and subsequent "disappearance" of Rosendo Radilla, carried out by members of the Mexican army in Guerrero in 1974. It stated Mexico had failed to inform Radilla's family of his whereabouts, and to adequately investigate the case and prosecute those responsible.