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MEXICO AT THE CROSSROADS
POLITICAL RIGHTS AND THE 1994 PRESIDENTIAL
AND CONGRESSIONAL ELECTIONS

INTRODUCTION

On August 21, 1994, forty-five million Mexicans will go to the polls to elect their new President and a new Congress. The ruling party, the *Partido Revolucionario Institucional* (PRI), which has governed Mexico without interruption since 1929, is facing a three cornered contest, with the conservative but pro-democracy *Partido de Acción Nacional* (PAN), and the left-of-center *Partido de la Revolución Democrática* (PRD). Six smaller parties are also fielding presidential candidates.¹

Of the three main contenders, the PRI candidate, Ernesto Zedillo Ponce de León, a Yale-educated economist, was picked when the campaign was already underway, after the PRI's original candidate, Luis Donaldó Colosio, was assassinated while he was on a campaign swing in Tijuana, Baja California. Zedillo was President Salinas' minister for budget and planning, and a contributor to the economic reforms which launched Mexico into the North American Free Trade Agreement (NAFTA) in 1993. Zedillo, who has risen up through public service, has never previously run for office.

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¹ The Authentic Party of the Mexican Revolution (PARM), Mexican Democratic Party-National Opposition Union (PDM-UNO), Party of the Cardenist Front for the Mexican Revolution (PFCRN), Popular Socialist Party (PPS), Worker's Party (PT), and the Mexican Green Ecological Party (PVEM).

Diego Fernández de Ceballos, who is fighting the presidency for the PAN, is a lawyer and former PAN congressman. His father helped found the PAN in 1939, after which it became the first opposition party to win state governorships. Fernández has been a PAN member since early youth.

Cuauhtémoc Cárdenas, the PRD candidate, is the son of Lázaro Cárdenas (President from 1934 to 1940), who is still revered by the poor because he nationalized Mexico's oil and distributed land to the peasants. In 1988, Cuauhtémoc Cárdenas came in second in the last and closest-run presidential elections in recent Mexican history. The official result, which credited him with thirty-one percent of the vote, was hotly disputed. A former PRI senator, Cárdenas served a term as governor of his home state, Michoacán, until 1986. He broke with the PRI in 1987.

The coming elections find Mexico at a crossroads. During 1994 demands for an overhaul of the Mexican political system acquired renewed political force following an armed uprising by Indian peasants in the southern state of Chiapas on January 1, 1994. The fairness of these elections is a litmus test of the government's willingness to achieve a genuinely representative democracy and give ordinary Mexicans the right to hold their rulers accountable.

In past years, electoral and political reforms introduced by the authorities have fallen far short of this mark. Indeed, they have been regarded by political scientists more as an effort to neutralize challenges to PRI dominance than to transform the PRI into a genuinely democratic party, subject to real electoral competition.² Suspicions that the recent reforms will not break with past practices, and that the PRI has a hidden agenda, are still widespread. According to recent polls, forty-seven percent the electorate have no confidence their vote will be respected.³ Two-thirds of the population believe that fraud would unleash widespread violence, leading either to repression or political anarchy. The government has spared no expense is trying to reinforce its message that these elections will be different.⁴

On January 27 the government co-signed the "Agreement for Peace, Democracy and Justice" a political and electoral reform pact between the PRI and seven opposition parties, including the PAN and the PRD. The agreement included the following elements:

- ◆ Election authorities would now be appointed by consensus between the political parties;
- ◆ The government guaranteed an accurate electoral registration roll subject to an independent audit;
- ◆ It agreed to issue, for the first time, voting cards carrying the bearer's photograph;
- ◆ There would be equal access to the media during the campaign;

² "Every time the system is paralyzed or threatens to go into crisis, political or economic reforms make their appearance, as the system's restorative or antiseptic defenses are pressed into action." ("Cada vez que el sistema se paraliza o amenaza entrar en crisis aparece la reforma, política o económica, como el medio restaurador o antiséptico del mismo sistema"). Arnaldo Córdova, *La Revolución y el Estado en México*, 1989, p. 300.

³ Gregory Katz and Tracey Eaton, "Close Presidential Race Threatening Grip of PRI," *The Dallas Morning News*, July 5, 1994.

⁴ The Ministry of Government has set up a demonstration office in Mexico City which is open to political parties and non-governmental groups, and provides access to a extensive computerized display of election procedures and data.

- ◆ The use of public resources, and the manipulation of government social programs for electioneering purposes was to be prohibited; and
- ◆ A Special Prosecutor would be appointed to investigate electoral crimes.

SUMMARY AND CONCLUSIONS

The co-existence in the past of reform measures and persistent electoral fraud (including not easily detectable methods such as the manipulation of voting lists) provide solid historical reasons for the public's deep skepticism that this election will be different. Moreover, there are known to be deep divisions in the PRI, with powerful interests in the party opposed to changes which could threaten its victory at the polls. Other party officials, who say they support the changes, may subvert them in practice.

Reforms introduced this year include a recently compiled and fully computerized electoral roll, the issue of photo-identity cards to voters, a ban on use of government funds for campaigning, and a host of election day anti-fraud controls. A Special Attorney has been appointed to investigate electoral crimes, which have been redefined and expanded in scope, with increased penalties. The control now exercised by six widely respected non-party citizens over the deliberating council of the Federal Electoral Institute (IFE), which makes election policy and oversees the elections, is another noteworthy advance.

However, there are still significant institutional and legal obstacles to an autonomous and impartial electoral process. Despite steps to make the General Council of the IFE more representative of the spectrum of political opinion, this body has limited powers. The IFE is still a PRI-dominated government bureaucracy, rather than a completely autonomous entity staffed on solely professional criteria. The President of the Republic still has powers to propose the slate of candidates from which the Electoral Court is chosen. This selection procedure could compromise the Court's independence and impartiality in ruling on the fairness of election results. The special prosecutor for electoral crimes, who will be responsible for enforcing anti-fraud legislation, is an appointee of the Federal Attorney General. The electronic media, from which eighty percent of Mexicans get their news, remain heavily skewed in favor of the PRI, according to independent Mexican monitoring groups. The PRI's campaign has received more newspaper coverage than the two major opposition parties combined. Recent government reforms have diminished but not eliminated the numerous indirect government pressures to which journalists and editors are subject.

While new measures to regulate and facilitate the elections have been widely accepted in the abstract, their implementation is already open to criticism. Evidence of unfair campaign practices, such as blatant flouting of the rules on public expenditure for partisan campaigning, and selective prosecution under the new electoral laws, is cited later in this report. Opposition parties have pointed to flaws in the new system of the electoral registry, including evidence that electoral officials have "lost" registrations, potentially cutting whole communities out of the voting, while the system is still vulnerable to abuse through multiple registrations.

- ◆ Human Rights Watch /Americas believes the government should take immediate further steps to reduce the likelihood of election day fraud, including by ensuring that accurate voters' lists are posted on the walls of polling stations.

Another question mark hangs over the effectiveness of procedures to detect fraud on polling day, to ensure that complaints will be impartially investigated and that officials who commit abuses are held accountable. This problem is especially pronounced in rural areas, where local *caciques* (bosses), often closely allied with the PRI, wield substantial power and are notoriously unaccountable before the law.

- ◆ It is incumbent on the Special Prosecutor for Electoral Offenses to establish exemplary standards of impartiality in investigating allegations of fraud.

The danger that segments of the ruling party and/or the government will flout or circumnavigate the reforms despite the government's stated intention to ensure a clean election, cannot be dismissed. In this context, the government's recognition of the role of domestic and international groups in conducting an impartial observation of the August elections is a significant advance. A vast formal and informal monitoring process will ensure that every aspect of the electoral process is subject to more intense scrutiny than ever before. The domestic organizations participating in the observation effort include independent non-governmental organizations which have worked consistently in recent years to strengthen political rights and government accountability. That the role of these groups is now explicitly acknowledged by the government and legitimated by technical and logistical support from the United Nations is a very encouraging development.

However, there have been disturbing reports of intimidation of potential election monitors, as well as campaigns conducted in news media closely linked to the ruling party against monitors and members of human rights organizations which are participating in the observation process. These form part of a prolonged campaign by sections of the pro-PRI press against Church groups, independent human rights groups, and other social activists. Although some of these newspapers claim to base their allegations on secret official documents, the government has failed to vigorously oppose the attacks.

- ◆ Human Rights Watch/Americas believes that the participation of citizens groups as impartial observers of the 1994 elections is an extremely important guarantee of the fairness and transparency of the elections. We urge the IFE, the Ministry of Government, and the Federal Attorney's Office to ensure that they are guaranteed unrestricted access to observe every stage of the election process, including the counting, tabulation and diffusion of the results.
- ◆ The Attorney General's office should issue instructions to its state branches explaining the work of election monitors and ordering special care to ensure that their human rights and independence are respected. The government must ensure that any intimidation, harassment, or physical attacks on election observers, journalists, or representatives of human rights organizations, are thoroughly and impartially investigated and those responsible brought to justice.

From June 18 to July 2, a Human Rights Watch/Americas delegation visited Mexico to collect information on the electoral process underway. The delegation, which visited the states of Oaxaca, Chiapas, and Michoacán, as well as Mexico City, met with representatives of non-governmental human rights and election monitoring groups, journalists, party leaders, academic experts, and government officials. Abundant information was provided by Ministry of Government officials, for which we are very grateful.

We present here our findings on those aspects of the campaign and the elections which are relevant to the core political rights protected by Article 21 of the International Covenant on Civil and Political Rights, that is, the right of every person to participate in and change their government. These rights are also enshrined in Article 23 of the American Convention on Human Rights, of which Mexico is a signatory.⁵

⁵ Article 25(b) of the International Covenant on Civil and Political Rights states that "every citizen shall have the right and the opportunity" to "vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors." Substantially the same language is incorporated into Article 23 of the American Convention on Human Rights. Barry E. Carter and Phillip R. Trimble, *International Law: Selected Documents* (Boston: Little, Brown and Company, 1991), p. 365.

THE IMPETUS FOR REFORM

Since the revolution of 1910, political rights have been treated with scant respect in Mexico. Genuine political competition has been ruled out by a political system which confers power and influence at all levels on a single party, the *Partido Revolucionario Institucional*. The President of the Republic, who may not be re-elected after serving his six-year term, personally chooses the party's candidate for the next presidential elections. Until now that candidate has never had to fight for an election victory on an even field.⁶ Despite constitutional reforms increasing political participation and introducing certain electoral safeguards, the PRI has governed Mexico with a firm grip for sixty-five years, and is deeply entrenched in government at all levels.

The present framework of political representation in Mexico dates back to a series of constitutional reforms introduced by President José López Portillo in 1977. The so-called Law on Political Organizations and Electoral Procedures (LOPPE) introduced that year increased the number of seats in the Chamber of Deputies (Mexico's lower house) to four hundred, three hundred of which were elected by majority vote, and one hundred by a system of proportional representation designed to give play to smaller parties. In 1986 the government of Miguel de la Madrid (1982-1988) further increased minority party representation by doubling the number of proportional representation seats from one hundred to two hundred, bringing the Chamber of Representatives up to its present size of five hundred seats. At the same time, the government introduced a controversial "governability" clause, which gave the party with the most votes (the PRI) an assured absolute majority in the Chamber.

As part of the 1986 reform package, the de la Madrid government also introduced limited electoral reforms, including giving opposition parties greater representation on the Federal Electoral Commission (the IFE's predecessor). These measures are widely considered to have been a response to the rapid growth in support for the PAN and increasing post-electoral protests and violence which followed blatant fraud by the PRI in mid-term municipal and gubernatorial elections in 1985 and 1986.

The 1986 measures were, however, a step backwards. A Federal Electoral Code introduced in 1986 gave the Minister of Government centralized powers over the entire electoral process, while the PRI retained an unassailable majority in the Federal Electoral Commission, as well as local electoral bodies. While the tactics of fraud changed toward less detectable methods, the PRI's control of the major electoral bodies ensured that cheating continued. The 1988 presidential elections were marred by numerous irregularities: nine percent of the total PRI vote originated in so-called "shoe" polling stations (*casillas zapatas*) in which the PRI gained a one hundred percent vote, sometimes exceeding the number of registered electors.⁷ The election was won by current president Carlos Salinas de Gortari, with a 50.4 percent majority, but the counting was interrupted in mid-stream by what was officially described as a computer crash. The PRD believes the "crash" to have been in reality a last minute intervention by Ministry of Government officials to prevent the victory of Cuauhtémoc Cárdenas, presidential candidate of the National Democratic Front, the left opposition coalition which later became the PRD.

⁶ In an interview published in the Mexico City edition of *El País*, President Carlos Salinas de Gortari admitted that for the first time the Mexican public was unable to predict the winners in a Mexican election. Fernando Orgambides, "Entregaré el poder a quien gane el día 21," *El País*, August 2, 1994.

⁷ Although the national PRI vote barely reached fifty per cent, in 1,087 districts the party was credited with ninety to ninety-nine percent, in 714 between one hundred and 109 percent, and in 337 with percentages in excess of 110 percent of the vote. Juan Reyes del Campillo, Alejandro Carrillo Luvianos, and Miguel Angel Romero, "Competitividad, legitimidad y reforma electoral en México," *El Cotidiano* 50, September-October 1992, p. 98.

Like his predecessors, President Salinas responded to the widespread unrest and uncertainty provoked by the 1988 result with a new round of reforms. This time there was a new impetus — the pressure generated by an increasingly mobilized electorate and the growth of a national movement for fair elections, together with an increasing international spotlight on Mexico with the opening of negotiations for its entry into the North American Free Trade Agreement (NAFTA). A Federal Electoral Institute (IFE) was created in 1990 to replace the former Federal Electoral Commission, and was made institutionally autonomous of the Ministry of Government, although still headed by the Minister. A Federal Code of Electoral Institutions and Procedures (COFIPE) was drawn up, which, although subsequently amended, is the main body of law governing the current elections. New measures ostensibly addressed campaign financing, voter registration, the selection of polling station officials (drawn for the first time by a random lottery), and increased party access to media advertising time. The government also abolished the "governability clause" in the apportionment of parliamentary seats. However, the reforms were carefully crafted to avoid a genuine threat to PRI dominance. The ruling party retained control over the key electoral bodies, such as the Federal Electoral Institute and the Electoral Court. Its diversion of government resources into party campaign funds was not affected, nor was its overwhelming advantage in access to favorable media coverage.

Under Salinas, state gubernatorial races and municipal elections continued to end in allegations of fraud, contested results, eruptions of street protest, violence, and human rights abuse.⁸ They have been described as "two-round elections," in which "one round happens before the election and is designed to win votes. The second round is held after the election, with the losing party trying to discredit the election and the winning party trying to preserve its supposed victory. This second round takes place in street demonstrations and back-room political negotiations."⁹ For example, as recently as November 1993, after the municipal elections in Yucatán, a contested result led to the resignation of the state governor, protest rallies by the PAN, and the eventual resignation of the PRI mayor-elect of Mérida, and his replacement by the PAN candidate, who had come second in the count.¹⁰ Similar events had occurred a year previously in a municipal race in Juquila, Oaxaca. After two thousand PRD supporters occupied the town hall in protest at the fraudulent election of the PRI mayoral candidate, a deal was eventually struck which gave the PRD three posts in the municipal government. By that time, seven people had been killed by pro-PRI gunmen,¹¹ and in December 1993 five PRD supporters were kidnapped for two days. Relatives of those affected received death threats and desisted from denouncing the kidnappings.¹²

⁸ See Americas Watch, "Briefing Paper on the Intimidation of Activists in Mexico," Vol. V, No. 10, October 26, 1994.

⁹ Ted Bardacke, "How the political system works: guide to election daze," *Business Mexico*, American Chamber of Commerce of Mexico, July 1994.

¹⁰ U.S. Department of State, *Country Reports on Human Rights Practices for 1993* (Washington, D.C.: U.S. Government Printing Office, 1994), pp. 489-503.

¹¹ The victims were Librado de los Santos González, Virgilio Mendoza Cortés, Pedro Salinas Mateos, Martín Cruz Escamilla, Alfonso Zorrilla Cortés, Santos Cortés Salinas and Alfonso Eliseo Cruz Sandoval. Details of the cases have been documented by the PRD's Human Rights Commission and were provided to the Human Rights Watch/Americas (hereafter HRW/Americas) delegation by the Commission.

¹² HRW/Americas interview with representative of the *Unión Campesina Democrática*, a PRD-affiliated peasant organization, Oaxaca, June 23, 1994.

In President Salinas' final year of office, there have been renewed pressures for change, this time much intensified by the January 1, 1994, armed rebellion of Mayan peasants in Chiapas. The Chiapas events were a major blow for the government; widely televised images of rural poverty and violence tarnished the image the country had successfully projected abroad during the NAFTA negotiations. The revolt also raised fears that Mexico's impoverished rural states could become ungovernable, unless major reforms were introduced. The *Ejército Zapatista de Liberación Nacional* (Zapatista National Liberation Army, or EZLN), the Chiapas rebel army, made fair elections a central and non-negotiable demand, and their insistence won them widespread support from opposition parties, especially the PRD.

Salinas responded with an important cabinet reshuffle, with two declared objectives: first, to secure an immediate ceasefire and the opening of peace talks with the rebels; second, to renegotiate terms for the 1994 elections with the opposition parties. Manuel Camacho was named to act as Salinas' personal envoy in Chiapas, with direct responsibility for the peace-talks. Salinas also appointed Jorge Carpizo as Minister of Government. As noted previously, by law the Minister is automatically president of the IFE, the recently created government bureaucracy which is responsible for the planning and carrying out of elections.

Both men have established reputations as leading representatives of the reformist wing of the party. Carpizo, who declares himself not to be personally a PRI member, is a widely respected lawyer and was the first President of the National Commission of Human Rights, the government ombudsman. As President of IFE, Carpizo played a key role in efforts to hammer out a consensus program between the political parties.¹³ The agenda for the negotiations was set by the January 27 agreement between the PRI and seven opposition parties, including the PAN and the PRD, which is summarized above. Only the small Popular Socialist Party (PPS) did not participate.

CONTROL OF THE ELECTION PROCESS

A basic safeguard against election-rigging is the supervision of the electoral process as a whole by a public body independent of the political parties and commanding widespread confidence. A standing criticism of the Mexican electoral system has been that the Federal Electoral Institute (IFE) is still controlled by the PRI. The lack of independence and impartiality of the organs responsible for reviewing electoral procedures was highlighted by the Inter-American Commission on Human Rights of the Organization of American States, which issued a critical resolution in 1990 on state elections in Chihuahua and Durango.¹⁴

¹³ On June 24, Carpizo shocked the country by announcing his resignation. His comments are indicative of the deep conflicts provoked by the reform measures. "I'm not just angry, I'm indignant and disillusioned," he said. "On various occasions I have exhorted the country and the government that we must stick unreservedly to the truth; the response has been more lies, calumny and hypocrisy." The statement gave rise to intense speculation as to which party the Minister was denouncing, but Carpizo, who returned to his post after entreaties from Salinas and leaders across the political spectrum, resolutely refused to disclose this information. Mireya Cuéllar, "Se queda Carpizo, ofrece ser imparcial. Pide no especular más sobre a qué partido aludió en su denuncia," *La Jornada*, June 27, 1994.

¹⁴ The PAN brought three cases before the Commission alleging violations by the PRI of the free exercise of political rights. The Commission found that Mexican law did not offer adequate internal remedies for the settlement of disputes and recommended that the Government of Mexico adopt the necessary measures to protect the exercise of political rights. Inter-American Commission on Human Rights, *Annual Report of the Inter-American Commission on Human Rights 1989-1990* (Washington, D.C.: General Secretariat, Organization of American States, 1990), pp. 97-123.

The IFE was created by a constitutional amendment in July 1990, with the support of all political parties except the PRD. It is responsible for all major election functions including the preparation of the electoral registration roll, and the tallying of the results. It is also charged with guaranteeing the exercise of electoral and political rights, ensuring the "authenticity" and "effectiveness" of the vote, and adhering to principles of "legal certainty, impartiality and objectivity".¹⁵

Within the IFE, election rules and procedures are decided by its General Council, which appoints the IFE's director and has oversight of all its operations.

At the time of the January 27, 1994 agreement, the composition of the General Council was as follows: the IFE President (chair), four members of Congress (two deputies and two senators, of which one senator and one deputy were chosen by the majority party, that is, by the PRI, the others by the largest minority party in each house), and representatives of the political parties, the number of which was made proportionate to the votes cast for the party in the preceding congressional elections. In addition the General Council included six "magistrate councillors," appointed by a two-thirds majority of Congress from a list of candidates submitted by the President of the Republic. The magistrate-councillors were required to be lawyers, and not to have held elected office or party leadership for five years before their appointment.

Apart from the complicated formulas involved, this arrangement attracted opposition criticism on several grounds: first, that it was not consistent with the principle of impartiality to make election decisions depend on party block votes, second, that the apportionment of votes on the Council on the basis of past election results unfairly favored the PRI, and third that the Executive should not be involved, directly or indirectly, in the election of the magistrate councillors.

In response to these objections, on April 19, 1994, Congress reformed the selection procedure for the magistrate councillors, who were henceforth to be known as "citizen councillors." Each party represented in parliament is now allowed to nominate four candidates for councillor, who are elected by a two-thirds majority of Congress. The councillors are no longer required to be lawyers, but must have "knowledge of political/ electoral matters."¹⁶ The present incumbents are widely respected and independent academics, election experts, and journalists, chosen by the parties and appointed by consensus by two-thirds of the Chamber of Deputies. In addition, party representatives on the General Council were deprived of voting rights, giving the citizen councillors an effective majority. In effect, the voting members of the Council were reduced to eleven, consisting of the citizen councillors, the four Congress members, and the Council's president. Carpizo announced in June that he would waive his voting rights.

This reform met wide approval in the country. The PRI had effectively conceded the automatic majority control it exercised in the past over the main election decision-making body. A representative of the Government Ministry told Human Rights Watch/Americas that this example of citizen participation represented a "change of model" in relation to past reforms.

The significance of this change, however, should not be exaggerated. There are important limitations on the powers of the present General Council, not least of which is the fact that it was not formed until June 3, only eleven weeks before polling day. The Council is only required to meet once a month. It does not have the power to convene itself, meet without the presence of its

¹⁵ COFIPE, Article 69, Secretaría de Gobernación, January 1994.

¹⁶ COFIPE, Article 76, Secretaría de Gobernación, June 1994.

President or table items for its agenda without his consent. The President also nominates candidates for appointments within the IFE, such as its Director General. The present Director General is a PRI member, and most other senior officials have had their careers inside the PRI-dominated state apparatus. According to one commentator, Carpizo made great efforts to establish a consensus that would allow these officials to be replaced by independent citizens, but was ultimately unsuccessful.¹⁷

The General Council's powers include setting criteria for the electoral register, approving the format of electoral credentials and official vote tallies, and setting limits to campaign expenditure for presidential elections. However, the General Council has few powers to intervene in electoral disputes, or safeguard legality. Only in the case of the two hundred deputies elected by proportional representation is the Council directly responsible for tallying the result, and apportioning seats to the parties.

A positive element is that the Council does oversee the formation of state and district electoral councils, which are responsible for counting the vote and announcing the parliamentary result in rural areas.¹⁸ Appointments to the councils, however, must be made by November 30 prior to the elections, which means that the new General Council's role in making appointments for this election is necessarily limited. Many commentators believe it is at the state and local level that electoral bodies are most prone to manipulation by political interests entrenched in local government. The degree to which the Council can exercise effective and independent oversight of the state and district councils, however, will depend ultimately upon the professionalism and independence of the IFE Director and the large staff under his exclusive control.

RESOLUTION OF ELECTORAL DISPUTES

In the past, elections in Mexico have been marred by the absence of an independent and politically impartial judicial body to adjudicate disputes between the contending parties. As part of the 1990 reforms, a Federal Electoral Tribunal (TFE) was established as an "autonomous organ and the highest legal authority on federal electoral matters."¹⁹

The TFE can rule on legal complaints against electoral authorities during the campaigns, on challenges to election results, and on disputes over the assignation of proportional representation seats.

The seventeen-member tribunal is composed of a Central Chamber with five members based in the Federal District, and four regional chambers, with three members each, based in Durango, Jalapa, Guadalajara, and Toluca.

¹⁷ José Agustín Ortiz Pinchetti, "La esperanza en el IFE," *La Jornada*, June 19, 1994.

¹⁸ Each state electoral council is presided over by the director of the state executive board (*junta local ejecutiva*), which is part of the IFE bureaucracy. The council also includes another IFE member (the secretary of the board), six citizen councillors nominated by the IFE and chosen by the General Council, and representatives of the political parties. Only the president of the council and the citizen councillors have voting rights. The district electoral councils, which are responsible for congressional elections, are structured on similar lines. Unlike the General Council, therefore, both state and district electoral councils are generated from within the IFE, rather than by independent nominations. During the June 18 meeting of the General Council, nineteen state electoral councillors were approved. The nominations were said to have been previously negotiated between the PRI, PAN, and PRD. José Woldenberg, "Los acuerdos del Consejo General," *La Jornada*, June 25, 1994. (Woldenberg is himself a citizen councillor).

¹⁹ COFIPE, Article 264, Secretaría de Gobernación, June 1994.

The tribunal's magistrates are chosen by the Chamber of Deputies from lists drawn up by the President of the Republic. This is one of the clearest structural defects of the electoral system. It means that the out-going President not only handpicks his party's candidate in the election to replace him, but also nominates the judges who will rule on the fairness of that election.

The tribunal's appellate panel, with five members, is presided over by the TFE president and four other federal justices, nominated by the Supreme Court and chosen by Congress on a two-thirds vote. The main role of this panel is to rule on disputed results in federal congressional elections. Before, these powers had been vested in Congress, in such a way that newly elected legislators sat in judgment on their own election.

In earlier elections, there have been worrisome precedents of the Tribunal's failure to pursue complaints. For example, the PRD claims that the TFE declined competence to investigate the party's allegations concerning the rigging of voters' lists in the August 18, 1991, mid-term congressional elections, despite the party's allegation that fifteen articles of the Constitution and forty-five articles of COFIPE had been violated. The PRD has also argued that quick access to justice is frustrated by the "irrationality" of the geographical dispersion of the regional chambers, which may be located hundreds of miles from where irregularities are denounced. The plaintiffs must otherwise denounce irregularities to the responsible electoral authorities, leaving it to their discretion whether to submit the case to the tribunal. The PRD has also criticized court procedures for impugning results as over-cumbersome and time-consuming, as well as the "ordinarily impossible" standards of documentary proof required to substantiate allegations.²⁰

THE DEFINITION OF ELECTORAL CRIMES AND THEIR PROSECUTION

The chapter in the Penal Code dealing with electoral crimes dates from August 15, 1990; prior to that there were no specific electoral provisions in the Federal Criminal Code. On March 25, 1994, Congress added twenty-two new electoral crimes to the fourteen already on the statute book. A notable addition has been the inclusion of a new chapter on crimes committed by public officials, prohibiting them (for the first time) from diverting official funds or resources to electioneering purposes. They are also forbidden to oblige subordinates to attend meetings or vote, and to use public services or social benefits as a bribe to secure votes, all of which have been reported to be common practices in the past.

Articles now on the statute book prohibit: double voting, the use of false credentials, use of bribes to obtain votes, the mass transportation of voters to polling booths, election-day proselytization, and the destruction of electoral documents. Penalties have been increased significantly for a number of these practices that had already constituted offenses.

All of these methods and many others are amply represented in Mexican political lore as *alquimia electoral* (electoral alchemy), and the local slang has an apt term for each of them. *Mapaches* (raccoons) are local government workers and PRI supporters who engage in organized acts of fraud on election day, such as stuffing ballot-boxes or interfering with them en route to the counting stations. *Operación Carrusel* means trucks and minivans which go from polling station to polling station depositing multiple votes. *Ratón Loco* (named for a ride in the Chapultepec amusement park) describes the practice of deliberately omitting voters' names from polling station lists, with the result that the voter must travel from one polling station to another in a vain attempt to locate the one where he or she is entitled to vote. *Operación Tamales* (a popular cornmeal snack) refers to the free meals provided for peasants and other poor people, who are rounded up to be transported in official vehicles to vote.

²⁰ Samuel del Villar, "Informe sobre las condiciones del proceso electoral de 1994 para renovar los poderes legislativos y ejecutivos federales de los Estados Unidos Mexicanos," December 17, 1993. Del Villar is the PRD representative to the IFE.

In practice, the effectiveness with which these new laws will be enforced will depend on the political will of the authorities, including the police and them military, to see them implemented, as well as the presence and the capacity of national observers and international "visitors" (the official term for foreign observers) committed to reporting every breach of the letter and the spirit of the electoral law.

On March 23, the General Council of the IFE mandated its President to begin immediate talks with the Attorney General's office for the creation of a special prosecutor for electoral crimes, with "full technical autonomy." The appointment lay vacant for months — Human Rights Watch/Americas was told by officials that a suitable candidate could not be found — until July when Ricardo Franco Guzmán was finally appointed by the Attorney General, with exclusive powers to prosecute electoral offenses. Franco announced that he would proceed with "absolute impartiality" in his activities. However, the institutional dependence of his office on the Attorney General's office could place his independence at risk.

Investigations conducted by other special prosecutors, who made similar assurances on their appointment, have failed utterly to inspire public confidence. A storm was provoked in July 1994, when special prosecutor Miguel Montes, who had been especially assigned to investigate the Colosio assassination, announced that the confessed author of the crime had acted alone, contradicting his own earlier conclusion that there had been a conspiracy. The evidence on which both conclusions had been reached was widely questioned. Alejandro Encinas, a member of a six-person parliamentary group charged with monitoring the investigations, said the Prosecutor had chosen to ignore important evidence, and that the finding had been delivered for political reasons. President Salinas immediately accepted Montes' resignation, and announced that he had given orders for the case to be kept open.

Before Mr. Franco's appointment, the Attorney General had already been criticized by the PAN and the PRD for his decision not to prosecute a senior government official who was accused of misusing public resources. Carlos Hank González, Minister of Agriculture and a veteran member of the PRI, and his private secretary, Juan Carlos Gómez Aranda, were accused by the PAN in early May 1994 of violating Article 407 of the Federal Penal Code, by using public resources to insert a paid advertisement in ten Mexican newspapers supporting Zedillo's candidacy. Gómez was alleged to have contacted the signatories (dozens of former governments officials) using an official fax machine.

On May 5 the PGR found that Hank had not been guilty of any wrong-doing. It accepted Hank's assurances that Gómez had done the work out of office hours, using his private office resources, and that the advertisements had been paid with private funds, his own and money "collected from friends." The investigation by a senior government official of alleged electoral crimes committed by a government colleague in the midst of a close-run campaign is highly questionable and fails to meet standards of impartiality and credibility.

The Attorney General, by contrast, moved with alacrity to open proceedings against an academic election expert who had deliberately flouted the law in order to draw the IFE's attention to loopholes which, he claimed, made it possible to obtain fraudulent voting credentials. On June 14, 1994, Dr. Fernando Bazúa, a member of the Center for the Study of Public Problems, of the Autonomous Metropolitan University Xochimilco, sent a document to the President of the General Council of the IFE, Jorge Carpizo, and to its Director, Arturo Nuñez, in which he showed how it was "extremely easy" for a single person to obtain double credentials by registering under a false name. In order to prove his theory, he said a female colleague, Fabiola Martínez Jiménez, posed under two false identities and was able to obtain separate voting cards from two IFE offices. Dr. Bazúa also offered the IFE access to the Center's services and to supply technical aids designed to eliminate risks of fraud, including use of a computerized fingerprint data bank.

Copies of Dr. Bazuá's investigation were published in the national press on June 18. At the meeting of the IFE's General Council on that day, Jorge Carpizo angrily rejected Dr. Bazuá's investigation as "rubbish," and denounced his actions to the Attorney General's office, which promptly opened legal proceedings against him and Fabiola Martínez for electoral offenses, including falsification of documents and fraud, for which they could be sentenced to three to seven years imprisonment.

Human Rights Watch/Americas considers that Bazuá and Martínez's prosecution was motivated primarily because his efforts to make public his approach to the IFE challenged the IFE's credibility. It is evident that Bazuá's actions were motivated by an intention to *prevent* electoral crimes, and the likely effect of his prosecution will be to intimidate others from contemplating public criticisms of IFE policy. Furthermore, in pursuing the case against Bazuá but hastily exonerating Hank, the authorities have done little to strengthen public confidence in the impartiality of election-related justice.

THE ELECTORAL REGISTER

The IFE claims that more than forty-five million Mexicans (ninety percent of eligible voters) are registered to vote in the August 21 elections. A completely new electoral roll has been drawn up following a voter registration drive which added nine million new voters to the lists used in the last federal congressional elections in 1991. Each voter is provided with a plastic photo-identification card, which bears the holder's signature and thumbprint as well as several anti-falsification features. The IFE, which claims a four percent margin of error for the lists, has submitted them for an independent audit to the private U.S. consulting firm, McKinsey, Inc. At a speech made on March 21, Jorge Carpizo promised that the audit would be available for review by a panel of scientists and professionals "well-known for their proficiency and impartiality," to be appointed by general agreement of the political parties.

Despite these impressive-sounding guarantees, the accuracy of the new electoral roll has been seriously questioned. On-the-ground investigations by both the PRD and the PAN, reported in the press, show numerous irregularities. At an extraordinary session of the General Council of the IFE on May 12, Samuel del Villar, the PRD representative on the Council, alleged that the lists provided by the IFE to the PRD contained deliberate and malicious alterations which were part of an official plan to commit massive fraud on the day of the polls. Jorge Carpizo accused the PRD of attempting to force a postponement of the elections, and challenged del Villar to appear on a televised debate with the Director of the Federal Electoral Register (RFE), Carlos Almada. In the debate, which took place on May 30, del Villar claimed that almost four million *ejidatarios*²¹ and self-employed listed in the 1991 census were omitted from the register. Almada countered that it had been checked by thirty-nine internal auditors and had been proved to be ninety-six percent accurate.

On June 2, three days after the del Villar - Almada debate, files were found in garbage bins outside the RFE's Mexico City headquarters containing nine voting cards without photographs or signatures. Six of the names on the cards corresponded to voters who were already on the definitive voters' list, that is, they had been issued their cards. At least three of these voters listed as having received their cards had changed address months earlier and one had been deceased for eighteen months. Another, who was known at the address given on the card, was reported to have made several efforts to obtain his card, only to be told that it had not yet been printed. The IFE Director, Arturo Nuñez, failed to explain how the cards and documents had come to be

²¹ Members of Mexico's *ejido* system, adapted from the Indian tradition of communal farming, under which the *ejidos* are granted title to lands by the state in perpetuity, for which they grant usufruct rights to peasants, while retaining ownership of the land.

discarded in a public place, given that the COFIPE requires that unclaimed electoral credentials must be held in safekeeping.²²

Both the PRD and the PAN have discovered and documented multiple error in the Chiapas register, including 156 citizens listed as living in a police station, and another seventy in a public park. Edgar Guzmán Gómez, the PRD representative in the Chiapas branch of IFE, claimed that forty percent of the state's electoral register was made up of persons with the same names (that is identical patronyms and matronyms) or the same names with different spellings. Opposition party investigations have revealed hundreds of errors in Michoacán, Yucatán, Durango, Tabasco, and Tamaulipas.²³

The anomalies revealed in these on-the-ground surveys are strikingly at odds with the findings of the surveys and audits centralized in the IFE or carried out by the independent consultants hired by it. During the first week of July the local press reported that the McKinsey audit had found the lists to be more than ninety-seven percent sound.²⁴

Reports indicate that tampering with the electoral register in such a way as to allow large scale multiple voting or the elimination of voters from polling station lists, was a significant factor in the 1988 presidential elections. For example, political scientists Alberto Aziz and Juan Molinar argue that the high PRI vote recorded in many poor rural areas was due to systematic manipulation of the electoral register, and the addition of fictitious names to the list. This conclusion was also reached by the Rosenblüth Foundation, an independent electoral research group, which found that in thirty-seven electoral districts in 1988 the electoral register exceeded the population by more than five percent. This may explain how the PRI vote often reached seventy to ninety percent of the adult population, although the national turn-out was a bare fifty percent.²⁵

The PRD has continued to press for further safeguards against possible electoral roll abuses. Samuel del Villar told the Human Rights Watch/Americas delegation that the party's major fear is that the voter lists supplied to the parties in advance of the elections will not tally with those actually used in polling stations on the day of the voting. The IFE agreed to supply the parties with a magnetic tape of the *listas nominales* (lists of voters to whom cards have been issued) by June 30, and a hard copy of the list by July 21, and to allow parties to check these lists against the IFE's computerized information. However, the PRD does not believe this is an adequate safeguard against last minute changes in the lists. On June 18 it asked the IFE General Council to amend polling station regulations so that the voter lists are posted prominently on the walls, enabling the pollwatchers to check ballots cast against the names on the list, so that both could be used as documentary proof in case of irregularities. The measure was opposed by the IFE director as impractical within the time period remaining before the elections. Jorge Carpizo also opposed the measure, saying that he was concerned that the elections could be jeopardized by

²² Gerardo Albarrán de Alba and Pascal Beltrán del Río, "Invocados por el debate, los *fantasmas* del padrón brotan por todas partes y con números y nombres, recorren el país" ("Conjured up by the debate, the *ghosts* of the electoral register are springing up on all sides, and touring the country with names and numbers"), *Proceso*, No. 918, June 6, 1994, pp. 10-12.

²³ *Ibid.*, pp. 12-14.

²⁴ Reuters, "Mexico Media Giant Bows to Election Bias Criticism," July 10, 1994.

²⁵ Alberto Aziz and Juan Molinar, "Los resultados electorales," in Pablo González Casanova, *Segundo Informe sobre la Democracia, 1990*, and La Fundación Rosenblüth, *Geografía de las Elecciones Presidenciales de México, 1988*. Quoted in Maria Gallo, "La manipulación del padrón electoral encubre el descontento contra la gestión Priísta," *El Financiero*, June 19, 1994.

last minute changes which turned out to be impossible to carry out effectively.²⁶ HRW/Americas believes that the IFE should make every effort to implement further changes to eliminate multiple voting on election day. It should ensure that voters are accurately informed in advance of the polling station where they are registered to vote, and that the party and independent pollwatchers have access to accurate polling station voters' lists.

POLLING-DAY SAFEGUARDS

Polling station procedures adopted since March by the IFE allow some hope that voting will be free of some the more blatant abuses of the past. In theory, there are three main lines of defense in the detection of fraud: first, observant, impartial, and efficient polling station officials, who conduct the voting and the polling station count; second, political party and independent election observers capable of maintaining a presence in polling stations nationwide,²⁷ and who are in a position to observe the vote and counting without hindrance or threats; and third, the professional and impartial conduct of state and district electoral councils, which compute the results from polling stations.

Whereas in previous elections polling station officials were selected by the government and the PRI, they are now chosen from an initial random sample of electors (by month of birth and first letter of surname). The final selection is made by the District Electoral Boards (IFE employees) on educational criteria. Although the PRD itself proposed a random selection method, the party has objected to the second stage of the procedure, which introduces selection by educational level. Human Rights Watch/Americas is unaware that this factor has significantly affected the selection process. We were told by an election observer, however, that in one rural state ninety percent of the polling station officials belonged to the PRI.

Accredited opposition party representatives have the right to observe every stage of the voting process and the count and receive copies of the official tally, although they do not have access to the voting lists. In addition, the voting will be observed by thousands of ordinary Mexican citizens belonging to a loose-knit umbrella group of Mexican non-governmental organizations. The role of the independent observers is discussed below.

District and local electoral councils have often been accused in the past of complicity in or actual fraud, and the transparency of the elections will hinge to a considerable degree on their conduct. As noted previously, the selection of the six citizen councillors, who have all but one of the votes on these councils, is a prerogative of the IFE General Council, although the late appointment of the present Council prevented it from playing a major role in the selection. Local and district IFE officials are drawn predominantly from the PRI, and some cases have been reported where local citizen councillors have overtly supported one of the parties in the campaign.²⁸ However, in a speech to the IFE General Council on June 3, Jorge Carpizo stated that at the request of the political parties, the IFE had reviewed the suitability of IFE officials and citizen councillors. As a result of the review, 247 officials and 170 citizen councillors were

²⁶ Mireya Cuéllar, "La ciudadanía en el IFE fue una nueva etapa político-electoral," *La Jornada*, June 27, 1994.

²⁷ During the first week of August, both the PAN and the PRD announced that they would have representatives present to observe voting in ninety percent of the nation's polling stations.

²⁸ Gerardo Albarrán de Alba and Pascal Beltrán del Río cite the case of two citizen councillors in the Fourth District electoral commission in Guanajuato, who were alleged by the PAN representative in the IFE General Council to have signed newspaper advertisements and appeared at rallies in support of PRI senatorial candidates. "Invocados por el debate," p. 10.

replaced because of their political affiliation.²⁹

The IFE has also introduced a number of technical safeguards against multiple voting. Each voting slip will have a numbered stub to ensure the number of votes cast matches the number of slips issued. Polling booths will be enclosed by screens to ensure secrecy.³⁰ Voting cards will be checked against voters lists. When the vote has been cast, cards will be marked with a "V," and the voter's right thumb will be marked with an indelible ink specially developed by the National School of Biological Studies of the National Polytechnical Institute.³¹

RURAL AREAS

The danger of these regulations being ignored or circumvented is greatest in indigenous rural areas, in which powerful *caciques* (local bosses) and state officials are notoriously unaccountable before the law, but closely integrated into the PRI's regional power structures. In these inaccessible *rancherías* (homesteads) and Indian communities, authority is represented mainly by armed thugs (*pistoleros*) working for local bosses, who have close ties to the PRI, the municipal and state authorities, and enjoy the backing of the police and army.

Many rural communities have for years been bypassed by the main opposition parties, and until recently have been ignorant of elections and voting procedures. As indicated previously, these inaccessible *rancherías* and Indian communities are where the PRI has traditionally racked up its most impressive electoral support. This is due in large part to the coexistence of traditional forms of democratic participation (the election of village representatives in open assemblies), with packaged voting organized by the PRI and local authorities. Cases are still reported in which municipal presidents organize the deposit of the vote of whole communities in favor of the PRI candidate, as if performing a purely administrative chore.

The *caciques* have other techniques available when Indians are determined to exercise their vote. Voters are cajoled and threatened, men armed with shotguns wait in polling stations to "observe" the vote, voters walk for miles only to find their name omitted from the voting list, and ballots are intercepted en route to the district office of the IFE and later burned.

Not surprisingly, given the level of political control by PRI bosses there, the PRI vote in the 1991 federal election in Chiapas was strongest in the areas which were later to be at the heart of the Zapatista rebellion. According to Mexico scholar Andrew Reding, "in the 9th Congressional

²⁹ "Mensaje del Dr. Jorge Carpizo, Presidente del Consejo General del Instituto Federal Electoral, durante la sesión especial de dicho Consejo General," Mexico, June 3, 1994.

³⁰ *Ibid.*

³¹ According to the *Christian Science Monitor*, "coming up with an indelible ink was a challenge for the Federal Electoral Institute, the government agency running the elections. In November (1993), it solicited samples of indelible ink from companies here. Five companies sent in fifty-four samples. The IFE then contracted the National School of Biological Studies at the National Polytechnical Institute to run tests on the inks.

Scientists found that all of the fifty-four inks indelible on paper, cloth, or metal could be removed from skin using household solvents. Intrigued by the challenge, they offered to develop an indelible liquid. The IFE gave them three criteria: it must last ten hours on the voter's thumb, be non-toxic, and cannot damage the skin.

'I don't know if the United States Food and Drug Administration would approve it. But it really is impressive,' said Dong Nguyen, head of a United Nations technical team here providing advice to the Mexican government." David Clark Scott, "Mexico's indelible ink will build confidence in wary electorate," *Christian Science Monitor*, July 7, 1994.

District, which includes Ocosingo and two other towns occupied by the Zapatistas, the PRI received one hundred percent of all votes cast in ten of the district's nineteen municipalities. In fact, when the Zapatistas ransacked the local PRI office, they discovered ballots from a previous election that should have been in the possession of the electoral authorities.³² In Oxchuc, one of towns the Zapatistas occupied, peasants interviewed after the rebellion — who belonged to an association opposed to the municipal government — said that they had been prevented from voting by threats. Presumably others voted in their place.

Since then, however, observers of rural politics in Oaxaca and Chiapas reported a significant growth of electoral activity by Indian and peasant groups. Since the Zapatista rebellion, protest activity has multiplied in Chiapas. In Oaxaca since January, at least one hundred government officials, including the state governor himself, were taken hostage by communities to get an answer to their petitions.³³ Covering these inaccessible areas will be a daunting and dangerous task for the election observers.

ELECTION OBSERVERS

Possibly the most positive augury for the transparency of the August 21 elections is the role to be played by thousands of volunteers belonging to a network of Mexican non-governmental organizations, who will observe events in polling stations across the country. The largest of these groups, Civic Alliance/Observation '94, has been working for several months monitoring the election campaign and electoral procedures.

These groups' forceful and outspoken human rights advocacy since 1988, as well as their role in monitoring a wide range of social issues, such as labor rights, environmental concerns, indigenous and women's rights, has done much to open the climate of political and social debate in the country. They have played a key role, assisted by the increasing international attention on Mexico, in placing the fairness of the elections firmly on the national agenda.

This work has not been easy. The government, particularly sensitive during the NAFTA negotiations to its human rights image, has generally avoided heavy handed tactics against non-governmental organizations, but subtle and not so subtle intimidation tactics have been prevalent. Less internationally-visible grassroots activists, such as campesino and indigenous rights advocates, have been particularly vulnerable to physical attacks. More common have been systematic attempts to discredit these groups by impugning their political motives and linking them with armed opposition movements.³⁴ Recent examples of these practices are documented below.

In March 1994, the IFE formally recognized the participation of domestic election observers by issuing a series of rules and guidelines. On election day, accredited observers are allowed to witness the installation of and closure of polling stations, the voting process, vote counting and registration, the posting of results outside polling stations, the announcement of results in district electoral councils and the reception of complaints by the electoral authorities. Before receiving their credentials, individual observers must complete a training course organized by

³² Andrew Reding, "Chiapas Is Mexico: The Imperative of Political Reform," *World Policy Journal*, March 21, 1994, p. 17.

³³ HRW/Americas interview with representatives of the Oaxaca non-governmental organization Campos, which supports Indian community projects, June 23, 1994.

³⁴ For a summary of recent incidents, see Americas Watch, "Briefing Paper on the Intimidation of Activists in Mexico."

the IFE or run by their own organizations along similar lines.

The government has also taken two other unprecedented steps to ensure a credible election process. First, on May 10 Jorge Carpizo invited the United Nations to assist by providing technical assistance and training to the domestic observers. Members of the U.N.'s Electoral Assistance Unit, who visited Mexico on a fact-finding mission from April 24 to May 1, underlined in their report the appropriateness of neutral civilian observers under what they termed "conditions of generalized distrust in which it is common to find extremes which range from systematic disqualification to unconditional defense of the electoral system."³⁵ Given Mexican sensitivities about sovereignty, the invitation to the U.N. to assist is an important step forward.³⁶

Fourteen non-governmental organizations are listed which will be receiving technical advice, logistical back-up, and training from the unit.³⁷ Apart from material assistance and training, the United Nations team is expected to "observe the observers," that is, observe their activities and publish an assessment which, if their work complies with U.N. standards, could contribute significantly to the authority of their findings. The U.N. has also been invited to evaluate the computerized vote counting system, considered particularly sensitive because of the disputed "crash" of 1988.

In another unprecedented gesture, the government has also agreed to the presence of international "visitors" — the word "observers" has been carefully avoided — on polling day. This is another welcome decision, and not one that was reached without deep misgivings in some parts of the government. In the past, the Mexican government has angrily shrugged off international criticism as illegitimate political interference in Mexican sovereignty. This was its response, for example, to the Inter-American Commission on Human Rights' critical 1990 resolutions on Mexican elections, despite Mexico's acceptance of the Commission's legitimacy when it was criticizing other states. An open door policy on international observers can only enhance the protection of basic human rights, in Mexico as in other parts of the world.

On June 18, the IFE set out guidelines for the international visitors. To obtain official credentials, visitors must be representatives of international or regional organizations, parliamentarians, electoral authorities, pro-democracy and human rights NGOs, or international personalities of recognized standing and prestige. While the guidelines offer support for the arrangement of interviews and meetings with official representatives and party candidates, they are not specific in allowing or prohibiting access to polling stations or IFE premises. Article 7 prohibits visitors from interfering in national politics, and Article 9 warns them that non-compliance could lead to the cancellation of their accreditation or to their deportation. The IFE left it in the hands of the political parties and Mexican NGOs to issue invitations.

³⁵ United Nations Electoral Assistance Unit, Department of Peacekeeping Operations, "Las Naciones Unidas y el Proceso Electoral Mexicano, Posibilidades de Colaboración," May 2, 1994.

³⁶ Jorge Carpizo's letter announcing the decision was dated May 10, one day after U.S. Secretary of State Warren Christopher urged President Salinas to admit foreign observers. According to *New York Times* correspondent Tim Golden, "with the governing party candidate, Ernesto Zedillo Ponce de León strongly favored, and the leftist opposition threatening already to denounce the process as fraudulent or unfair, the risk of a disputed result was probably greater without foreign scrutiny than with it." "Mexico Invites U.N. to Attend Elections to Observe the Observers," *New York Times*, May 13, 1994.

³⁷ *La Jornada*, June 12, 1994.

THREATS TO OBSERVERS

The Civic Alliance, whose member organizations have been carrying out election observations since 1988, now faces a daunting challenge. It intends to cover at least five thousand polling stations nationwide, and to deploy at least 13,000 monitors. It is installing a nationwide computer network to permit a rapid count at the close of voting.

In past elections, election monitors have faced a variety of forms of intimidation ranging from interference to death threats and assaults.³⁸ The IFE's policy of encouraging citizens' observation efforts is a positive sign. But election monitors remain an unpopular irritant to sections of the ruling party. Human Rights Watch/Americas was told in June that interlopers from the Ministry of Government sat in on a training session for election monitors, refusing to leave when asked to do so. On July 28, the pro-government daily *Excelsior* published a front-page article accusing members of the human rights network "All Rights for Everyone" (Todos los Derechos para Todos) of being subversives, after they had attended an election observation training workshop in Coyoaca de Benítez, Guerrero.³⁹

Visible leaders of the civilian observation effort have received anonymous threats. Sergio Aguayo, President of the Mexican Academy of Human Rights and an organizer of the Civic Alliance, told Human Rights Watch/Americas that he had been subjected to death threats and had been offered police protection. Risks of attacks on monitors are much greater in rural areas, where the monitors will be relatively few in number and isolated by geography and poor communications, and where their impartial role is much less likely to be respected or tolerated.

It is vitally important that the observers be allowed to perform their work without hindrance or harassment and receive all the necessary assistance and support from the electoral authorities and the government. Any physical intimidation, harassment or violence against election monitors must be fully investigated and those responsible be held criminally accountable.

ACCESS TO THE MEDIA

The capital's daily newspapers offer a wide range of political opinion, and have provided detailed coverage of the election campaign. The Salinas government has taken some steps to reduce the economic ties of newspapers and reporters to the government. However, these measures, which lack an independent enforcement mechanism, have not eliminated the varied and well-tried mechanisms of newscontrol: pay-offs and the offer of attractive incentives and commissions to journalists; threats of withdrawal of lucrative government advertising to hold newspaper owners and editors in line.⁴⁰ In many newspapers government-paid stories, known colloquially as *Gazetillas*, still feature alongside authentic features; some papers signal a government insert by using a different typeface, which the canny reader quickly learns to recognize.

As would be expected, coverage of the election campaign in the Mexican press, while expressing a wide range of opinion, appears to have favored the PRI in quantitative terms. From

³⁸ Americas Watch, "Briefing Paper on the Intimidation of Activists in Mexico," pp. 19-22.

³⁹ Letter addressed to Dr. Jorge Carpizo from Mariclaire Acosta, President of the Mexican Commission for the Defense and Promotion of Human Rights, July 29, 1994.

⁴⁰ Americas Watch, "Briefing Paper on the Intimidation of Activists in Mexico."

November 20, 1993, to May 29, 1994, the PRI received more coverage than the PAN and the PRD combined, in national and local papers, according to a recent study by the Mexico City daily, *Reforma*.⁴¹

However, since only a tiny proportion (approximately nine percent) of Mexicans read newspapers, this skewed coverage is less significant than a similar bias would be on television, from which eighty percent of Mexicans get their news.

The IFE allows each party free fifteen-minute television slots in off-hours, and distributes free radio advertising time to the parties. What they receive is proportionate to their vote in the 1991 congressional elections.⁴² This subsidized advertising is one of the few areas in which the electoral authorities can directly regulate media coverage. Access to paid advertising depends on non-discriminatory broadcasters and on the size of campaign budgets. The IFE took some action to prevent broadcasters from refusing to sell advertising space by acting as an intermediary between the parties and the networks: it provides parties with lists of spots and prices, and they buy their time through IFE, rather than from broadcasters. In practice, given that television advertising is prohibitively expensive for the opposition parties, they derive limited benefit from this change.

The debate on media access has focused rather on the extent to which television news programs have given equal treatment, both in quantity and quality, to the candidates and their parties. The IFE's ability to intervene directly on this issue is obviously limited by its need to respect editorial freedom. Although Mexican television networks are privately owned, one media giant, Televisa, is said to have at least eighty percent of the television audience, and has never known serious competition. It is closely linked with the PRI and its sanitized and biased domestic news coverage, and stifling of open debate, have been a frequent butt of criticism.⁴³

A commitment to "guarantees of equity" in media coverage was included in the January 27, 1994, inter-party pact on electoral reforms. Apart from access to free advertising time, the government said it would bring pressure to bear on the major networks so that they "contribute effectively to the strengthening of the democratic process."⁴⁴ There were some indisputable, if limited, advances. The televised debate between Zedillo, Fernández, and Cárdenas, transmitted by Televisa on May 12, gave opposition candidates their first opportunity ever of confronting the PRI publicly in front of a mass audience. The debate electrified the campaign. Diego Fernández's relaxed manner and jocular digs at Zedillo captivated viewers and easily won him the debate, transforming him overnight from an obscure outsider into a serious contender. Polls showed Fernández increase his support from fifteen percent in April to forty-six percent after the debate,

⁴¹ David Clark Scott, "Mexican Elections Sullied by Claims of Media Bias," *Christian Science Monitor*, June 1, 1994.

⁴² Ted Bardacke, "How the Political System Works: Guide to Election Daze," *Business Mexico*, American Chamber of Commerce of Mexico, July 1994.

⁴³ Televisa reporters were banned by the Zapatistas from covering the Chiapas peace talks. The Zapatistas alleged that they had staged a phony helicopter "rescue." According to *Christian Science Monitor* reporter Richard Seid, "shamefully Televisa then recorded the signal from minuscule university-run Channel 11 when the rebels released a hostage, the former governor. In Channel 11's original broadcast, the crowd cheered the rebels and booed the ex-governor. Amazingly, in Televisa's copied version, the soundtracks of the people's reactions were reversed." Richard Seid, "Mexico's TV Debate Lets the Public Join In," *Christian Science Monitor*, May 20, 1994.

⁴⁴ Tim Golden, "Mexican Parties Agree to Reforms," *New York Times*, January 28, 1994.

while support for Zedillo dropped from fifty-eight percent to thirty-six percent.⁴⁵

However, studies conducted by the Mexican Academy of Human Rights and the Civic Alliance show that television news programs remained heavily skewed in favor of the PRI. The first study, published in May, concluded that "the skewed coverage we observed undermines not only the right of the Mexican people to information, but to political rights as well, for it calls into question the very conditions of equality in which the candidates should compete and which are indispensable to the fairness of an election."

From January 3 to April 29, 1994, for example, the PRI received forty-three percent of the total time dedicated to the elections of the two news programs studied (Televisa's *24 Horas* and Televisión Azteca's *Hechos*); the PRI candidate, Ernesto Zedillo, received three times more coverage than Diego Fernández and six times more coverage than Cuauhtémoc Cárdenas.⁴⁶ There were also marked differences in *how* the contenders were presented: the PRI candidate was shown speaking on camera ("voice and image") far more frequently than the opposition candidates, whose words were more frequently reproduced with a newscaster's voice-over. In one month Zedillo received the same or more "voice and image" coverage than the PAN and PRD candidates in the entire period of the study. The President of the Mexican Academy, Sergio Aguayo, accused the two networks of deliberately building up the PRI's new candidate.⁴⁷ In a second report covering May 2-27, the Mexican Academy found some improvements, but concluded that the general picture remained unchanged.⁴⁸

In early July the Federal Electoral Commission itself produced a damning report. It found that from June 22 through June 28 the ruling party received thirty-seven percent of television coverage time, the PRD 16.1 percent, and the PAN 13.6 percent. PRI candidates received more than half the radio airtime devoted to the contest.

Televisa has recently promised that the nine presidential candidates, even from the smallest parties, would be invited to make three fifteen-minute political broadcasts to be aired repeatedly until a week before the elections.⁴⁹

HARASSMENT OF INDEPENDENT VIDEO PRODUCERS

The independent video producer, Canal 6 de Julio, set up in 1988 to provide an alternative to the regular television news fare, has been subjected to repeated anonymous attacks and threats in recent months. The group, which covered the 1988 and 1991 mid-term elections and documented fraud and post-electoral violence, had its office broken into three times in January,

⁴⁵ The polls were conducted by Indemerc-Louis Harris, on behalf of the National Chamber of Radio and Television. HRW/Americas received a copy of the first poll, courtesy of the Mexican Embassy in Washington, D.C.

⁴⁶ Mexican Academy of Human Rights in collaboration with the Civic Alliance/Observation 94, "The Media and the 1994 Federal Elections in Mexico," May 19, 1994. Distributed in English by the Washington Office on Latin America, June 1, 1994, p. 2.

⁴⁷ Gregory Katz, "The Mexican Media Called Biased," *Dallas Morning News*, May 20, 1994.

⁴⁸ Miguel Acosta and Manuel Martínez, "Las elecciones federales en México según los noticieros *24 Horas* de Televisa y *Hechos* de Televisión Azteca, 2-27 México," *Academia Mexicana de Derechos Humanos*, June 1994.

⁴⁹ "Mexico's Ruling Party Gets Most Air Time; Study Casts Doubt on Election Fairness," *The Arizona Republic*, July 6, 1994.

shortly after it had made a documentary on the Chiapas conflict. Copies of the Chiapas video, equipment, and a telephone-answering tape were stolen, and the intruders scrawled "PRI-GROUPS" (*Grupos PRI*) on a poster, and left a piece of half-burned document on a desk. Those responsible for the attacks were never found.

Papel de Mono, a small alternative bookstore in San Cristóbal de las Casas, which had received copies of the video, was also broken into.

The vulnerability of journalists to intimidation or violent attack in Mexico has been a recurrent problem which has preoccupied both national and international human rights bodies in recent years. Three fatal attacks on journalists have been reported in June and July 1994, all in the state of Morelos. Early in the morning of June 6, Jorge Martín Dorantes, director of the Cuernavaca weekly *Crucero* was reportedly shot dead by unidentified assailants. Two reporters for the Cuernavaca daily *La Unión de Morelos*, Enrique Peralta Torres and José Luis Rojas, were killed during the first two weeks of July. Although Human Rights Watch/Americas has no information to indicate government involvement in the deaths, it is concerned that none of these crimes have yet been clarified.⁵⁰

The concern that sectors of the press may be violently intimidated or suffer physical attack in covering the elections or post-election events is a real one, and the government should be especially vigilant to protect them and ensure that any attacks on freedom of expression are vigorously investigated.

HUMAN RIGHTS AND THE ELECTIONS

Electoral conflict and protests have been a significant factor in serious human rights violations under the Salinas government. Such attacks have often occurred in the context of electoral fraud, and post-election clashes and demonstrations. The PRD claim that 246 of their members were murdered from 1988 to 1994, more than a quarter of them from the state of Michoacán, Cuauhtémoc Cárdenas' home state and principal base. Sixty of the killings took place in 1993. One hundred and eighty-two of the cases have gone entirely uninvestigated, and only seventeen have been solved, according to an analysis by the PRD human rights commission.⁵¹ After PRD protests of the killings, in 1992 the Attorney General agreed to appoint a special prosecutor named by the PRD itself to investigate fourteen of the Michoacán cases. According to the special prosecutor, ten of the cases of murder had been solved and twelve people detained; five of the victims were killed by police, and six of the ten killings cases solved were politically motivated.⁵² The number of political killings in 1994 recorded by the PRD has declined (the PRD records seven cases in January through May).

Two recently reported cases heighten our concern about possible attacks on PRD members in the context of the elections. On July 11, Oscar Martín López Fernández, a twenty-year-old drama student, was intercepted by a judicial police patrol car in Mexico City while distributing leaflets and collecting contributions for the PRD. According to his testimony given to the Mexican Commission for the Defense and Promotion of Human Rights, López was seized, thrown into the vehicle, threatened and interrogated about his political activities, and accused of having links with the Zapatistas. He was allegedly hooded, stripped, cut on the chest with a knife, given

⁵⁰ Letter from Reporters Sans Frontières to President Salinas, August 1, 1994.

⁵¹ Comisión de Derechos Humanos, Partido de la Revolución Democrática, "Un sexenio de violencia política," 1994.

⁵² HRW/Americas interview with Special Prosecutor Eudorio González, June 28, 1994.

electric shocks on his testicles with an electric shock baton, and threatened with being thrown over the edge of a steep ravine.⁵³

On July 25, Armando Avendaño Figueroa, the PRD candidate for governor of the state of Chiapas, was the victim of an attack which left three dead and caused him serious injuries. At about seven in the morning, the minivan in which Avendaño, his son, and other PRD leaders were travelling on the road from Mapastepec to Pijijiapán was hit by a Kenwood truck without cargo, license plates, or other markings. The driver of the truck abandoned the vehicle and fled, leaving Avendaño seriously injured with a punctured lung and broken ribs. His son, Elia Avendaño Villafuerte, and José Jaime Aguilar, a PRD member, reportedly were also injured. Roberto Mauricio Villafuerte and Jorge Fonseca García, both PRD members, and Agustín Rubio Montoya, campaign manager and a leader of the Independent Union of Agricultural Workers and Peasants (CIOAC) were killed instantly.

Several circumstantial factors in this incident suggest that it was a politically-motivated attack rather than an ordinary traffic accident. The crash occurred on a straight stretch of road in which the truck was moving from one side of the road to the other. Avendaño had altered his campaign plans abruptly after receiving a call from the state governor inviting him to an urgent breakfast meeting to which he was driving when the collision occurred. The truck was travelling without license plates in a state under military alert where there are frequent army checkpoints.

Following the arrest of a man claimed by the authorities to be the driver of the truck, the Deputy Attorney General, Mario Ruiz Massieu, announced at a news conference on July 29 that the official investigation had concluded that the collision was an accident. However, this conclusion was announced before the authorities had interviewed Avendaño, who at that time was still unable to talk. According to Avendaño's daughter Amalia, the authorities had not notified the family of the arrest or of any results of their investigation.⁵⁴

In our last report on Mexico, we denounced a pattern of intimidation of critics or opponents of government policies. That pattern has continued, with the uprising in Chiapas the main background factor.⁵⁵

On May 12, the headquarters of the Society of Jesus in Mexico received several bomb threats, which Jesuit sources attribute to retaliation for the Order's critical stance on government policies. A month earlier, the newspaper *Summa* launched a front-page campaign against the Jesuits in sensationalist style, claiming to have leaked Federal intelligence files showing Subcommander Marcos, the charismatic but unidentified Zapatista spokesman, to be really a Jesuit priest, the Rev. Jerónimo Hernández. The Jesuits filed libel charges. Another *Summa* article alleging links between the Jesuits and the Zapatistas was based on a stolen and misquoted memo, according to the Jesuits. The government has remained silent on the accusations, despite the reference to official intelligence documents.⁵⁶

In two consecutive issues (2314 and 2315) of the magazine *Impacto*, published in July, articles appeared under the title "*Quieren incendiar a México en el nombre de Dios*" ("They want to set fire to

⁵³ Letter from the Mexican Commission of Human Rights to President Salinas, July 12, 1994.

⁵⁴ Anthony de Palma, "Mexican Candidate's Crash Called Accidental," *New York Times*, July 31, 1994.

⁵⁵ HRW/Americas will be issuing a separate report on the Chiapas conflict with Physicians for Human Rights later this year.

⁵⁶ The managing editor of *Summa* is Jacobo Zabłudovsky, anchorman of Televisa's *24 Horas* news program.

Mexico in the name of God") accusing several Jesuit human rights groups in Chihuahua of promoting and indoctrinating armed groups in the state.

Other articles appeared in *Impacto* (July 7), *Novedades* (July 24), and the Chiapas newspaper *La Noticia* (July 10), citing official intelligence reports, in which a total of nineteen Chiapas human rights workers, journalists and members of local NGOs were personally accused of links with the EZLN. Samuel Ruiz, Bishop of San Cristóbal de las Casas, who heads the list of *Summa's* targets, and members of the Diocese human rights center, have also received repeated death threats.

On June 20, the Ministry of Government expelled an Ecuadoran priest, Father Marcos Hallo del Salto, alleging he had "given weapons" to his parishioners, a charge which he denied. Local PRI members are said to have campaigned for his expulsion, apparently holding him responsible for their loss to the PAN in a local election. His Puebla parishioners mounted roadblocks to protest his arrest.

The danger is that election unrest, and continuing rural confrontation and violence, will start a post-election spiral of retaliation against civil groups which sectors of the PRI blame for the Chiapas uprising and the similar tensions reported in other states.

There are ominous signs that the Salinas government is preparing to limit rather than enhance current constitutional constraints on the deployment of security forces, ostensibly to maintain public order more effectively. On April 26, the Mexican Coordination of National Public Security was created by presidential decree. This new body, responsible directly to the President, is charged with overseeing crime-control operations of both state and federal police forces, and is headed by former Labor Minister Arsenio Farrell Cubillas.

Paragraph IV of Article 2 of the Decree requires the Coordination to "propose and establish efficient communication channels with the Ministry of the Interior, National Defense and the Navy, as well as with the Department of the Federal District, in order to safeguard national public security in the areas of competence of the said dependencies."

One of the disturbing features of the Chiapas conflict was the assumption by the Mexican army of *de facto* law enforcement powers, such as powers of arrest and search, detention, transportation and interrogation of suspects, in the absence of any legal powers, such as the declaration of a limited state of emergency, to authorize restrictions of constitutionally protected rights. The wording of the article cited above is loose, and defines no precise limits to the powers of the armed forces in "safeguarding national public security," beyond the reference to the "areas of competence" of the various forces, which in the past have proved to be extremely elastic.

Critics see the formation of the Coordination as a prescription for army intervention in social unrest elsewhere than in Chiapas. The president of the Mexican Bar Association has expressed nervousness at the Coordination's broad powers. In a recent report, Minnesota Advocates for Human Rights (MAHR) highlighted the illegal detention and torture on June 1 of six individuals in the state of Morelia, in a Coordination-led police operation. According to MAHR, "the Federal Judicial Police taking part in the operation did not present any search or arrest warrants, illegally entered several homes in the community, shot down one door, beat several persons who resisted and illegally detained six individuals. The detainees were then transferred to police cells where they were subjected to torture, including electrical shocks, submersion in water and psychological pressures."⁵⁷

While Human Rights Watch/Americas does not oppose mechanisms to coordinate law

⁵⁷ Minnesota Advocates for Human Rights, *The Mexican Coordination of National Public Security: A Discussion of Legal and Human Rights Issues*, June 23, 1994, p. 5.

enforcement agencies *per se*, it strongly condemns such measures when they weaken constitutional and legal controls over law enforcement, erode basic individual rights and guarantees, and relax standards of accountability. The Mexican authorities should be seeking rather to reinforce these standards by long overdue measures to make law enforcement agencies more respectful of human rights, and the justice system more responsive and efficient in investigating and sanctioning abuses.

U.S. POLICY

During the months leading up to the August elections, the Clinton administration voiced optimism about the prospects for free and fair elections in Mexico. In public, administration officials have avoided criticizing the Mexican government's electoral reforms and have chosen instead to express confidence in the Salinas government to carry out the proposed improvements. Although we have been informed that the Clinton administration may have raised concerns about the shortcomings of the reforms with the Mexican government privately, the subject of those concerns has not been made public.

On May 9, for example, Secretary of State Warren Christopher spoke in Mexico City:

This August's elections will demonstrate the vitality of Mexico's democracy. We applaud the far-reaching electoral reforms that Mexico has adopted over the last several years, including the agreement of January 27 of this year. We trust that these reforms, combined with your new election technology, will produce a free and fair election that will give all Mexicans confidence in the outcome.

On May 5, 1994, President Bill Clinton declared, "I believe that Mexico will hold full, free, and fair elections." On May 6, 1994, Assistant Secretary of State for Inter-American Affairs Alexander Watson told reporters,

...we are really encouraged by the political reforms that the Salinas administration has undertaken throughout its tenure, none more than [the January 27th agreement] ...reforms that we expect will be enacted fully in time for the election. I think this is really very, very hopeful....we're confident that the administration in Mexico really wants to have a free and fair election, as does the candidate for the PRI.

In addition to praising the Mexican electoral reforms, the Clinton administration also urged Members of Congress not to express any criticism of the Salinas government's electoral preparations. For example, in a July 11, 1994, letter, the State Department urged Members of Congress not to proceed with a draft resolution that merely encouraged the Mexican government to implement fully the reforms enumerated in the January 27 agreement. The State Department stated that "given the sensitivity in Mexico to 'overt' pronouncements," the resolution would be "counterproductive" and could provoke "nationalist reactions."⁵⁸

In our view, the administration's determined faith in the Mexican electoral process is overstated, and the failure to express any concerns in public — and for the record — may be regrettable if serious problems arise during or after the elections.

- ◆ Human Rights Watch/Americas urges the U.S. to withhold its judgment on whether the elections were free and fair until complaints are adjudicated. Should such irregularities occur, we urge U.S. officials to be forthright in condemning them and to press for such

⁵⁸ Letter to House Foreign Affairs Committee Chair Lee Hamilton from Assistant Secretary for Legislative Affairs Wendy Sherman, July 11, 1994.

immediate remedies as may be appropriate.

During the spring of 1994, the Mexican government purchased millions of dollars worth of riot-control vehicles from U.S.-based manufacturers.⁵⁹ The armored vehicles purchased feature water cannons and gun ports, with optional features such as side tanks for dyes that can be used to identify protest participants, remote-controlled television systems with recording capabilities, and a hydraulic barricade remover.

When asked about the anti-riot equipment in early May, both Assistant Secretary for Inter-American Affairs Alexander Watson and U.S. Ambassador to Mexico James Jones claimed to have no information about the sales. Assistant Secretary Watson stated, "You'll just have to ask the Mexican government why they bought this equipment and for what purpose....Maybe it's nothing special, maybe it is, but you'd have to ask them. I don't think anyone is anticipating anything like Chiapas elsewhere."⁶⁰ The *San Antonio Express-News* reporter who wrote the original story about the purchase made several attempts to obtain specific information about the anti-riot gear, but the information was deemed "proprietary" and unavailable to the public.

The State Department has advised Human Rights Watch/Americas that no export licenses were necessary from their agency or the Commerce Department for the sale of the anti-riot equipment. Nevertheless, Human Rights Watch/Americas believes that, once Clinton administration officials were aware of the sale of these items, they should have stated that they encouraged the Mexican government to use the equipment with restraint and in a manner consistent with human rights. In light of recent abuses committed by the Mexican armed forces during the Chiapas uprising, and the history of the Mexican army's actions against protesters in the past, such a statement would have been entirely appropriate.



This report was written by Sebastian Brett, Human Rights Watch/Americas Researcher for Mexico and the Southern Cone. It is based on a fact-finding trip by Mr. Brett and Human Rights Watch/Americas Board member Clara "Zazi" Pope in June and July, 1994. Human Rights Watch Research Associate Allyson Collins wrote the section on U.S. policy. The report was edited by Cynthia Arnson, Acting Director of Human Rights Watch/Americas, and by Michael McClintock, Deputy Program Director of Human Rights Watch. Human Rights Watch/Americas Associate Stephen Crandall provided additional assistance. We are grateful to the General Service Foundation for its generous support of our work on Mexico.

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Human Rights Watch/Americas (formerly Americas Watch)

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⁵⁹ John MacCormack and Carmina Danini, "Mexico Importing Riot-Control Vehicles," *San Antonio Express-News*, April 27, 1994. According to the authors, the Mexican government confirmed the purchase.

⁶⁰ State Department Regular Briefing with Assistant Secretary for Inter-American Affairs Alexander Watson, May 6, 1994, as transcribed by Federal News Service.

advocacy director; Gara LaMarche is the associate director; Juan E. Méndez is general counsel; and Susan Osnos is the communications director. Robert L. Bernstein is the chair of the executive committee and Adrian W. DeWind is vice chair. Its Americas division was established in 1981 to monitor human rights in Latin America and the Caribbean. Cynthia Arnson and Anne Manuel are the acting directors; Sebastian Brett, Robin Kirk, and Gretta Tovar Siebentritt are research associates; Stephen Crandall and Vanessa Jiménez are associates. Peter D. Bell is the chair of the advisory committee and Stephen L. Kass and Marina Pinto Kaufman are vice chairs.