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Outdated Judicial, Political Systems Foster Human Rights Violations in Mexico

by LADB Staff
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In early December, a UN agency issued a stinging report on Mexico's human rights record, criticizing the longstanding structural shortcomings in Mexico's justice and political systems. The UN High Commissioner for Human Rights (UNHCHR), with the assistance of 12 human rights organizations, produced the 224-page report at the request of President Vicente Fox's administration. The UNHCHR report was released as the Fox government continues to wrestle with investigations of government-sponsored repression against leftists in the 1960s and 1970s and criticisms of the government's inaction on the murders of hundreds of women in Ciudad Juárez in the past 10 years (see SourceMex, 2003-10-22).

In addition, other recent reports cite evidence of the Fox's government's shortcomings in protecting human rights. Just days after the UNHCHR report was released, Amnesty International (AI) designated two Tarahumara environmental activists arrested in Chihuahua as "prisoners of conscience," claiming they were thrown in jail because of their work in defense of human rights.

An even more indicting report was published by Accion de Cristianos para la Abolicion de la Tortura (ACAT), which noted that reported cases of torture in Mexico have increased steadily during the first three years of the Fox government, rising from 12 in 2001 to 37 in 2002 and 62 this year.

The UNHCHR report is the most comprehensive investigation to date on the political and structural problems that have led to human rights violations in Mexico, ranging from child-protection laws to labor rights, police torture, and the role of the military and secret police in repression of dissidents. "This is a combination of principles, hopes, and pragmatism," said longtime human rights advocate Sergio Aguayo, one of four Mexican academics who wrote the 192-page report in conjunction with UN officials. "There is an entrenched system of exploitation and abuse in Mexico, and this is a summary of all its dimensions."

Report presents 32 recommendations

The report offers 32 recommendations to the Fox administration to address the problems. A key recommendation is that the government move toward abandoning a judicial system rooted in 19th-century Napoleonic law, in which judges decide cases based on reading documentary evidence. Instead, the report proposes creating an adversarial system in which a judge would hear oral arguments by prosecutors and defense attorneys.

Among other things, the report proposes rejecting confessions obtained by torture as evidence in criminal trials and overhauling a military justice system in which soldiers accused of human rights violations are tried in secret. Also prominent is a proposal for creating new mechanisms to reduce violence against women and curb discrimination against indigenous communities and individuals.
The UNHCHR also urges the government to establish a system of juvenile-justice laws and proposes modernizing labor laws to give workers more freedom from oppressive unions. "The UN report opens a window of opportunity for progress on human rights in Mexico," said Jose Miguel Vivanco, of the Americas division of New-York based international organization Human Rights Watch (HRW/Americas). "It is crucial that the government use the report's recommendations to craft a national agenda to tackle the country's longstanding human rights problems."

Fox, who has been criticized for paying lip service to the defense of human rights but taking little action, immediately promised to address the concerns listed in the report, but he also defended his administration's efforts to give human rights a higher profile. "One cannot deny that the human rights situation today has improved from what it was only three years ago," said Fox.

As a first step, the president said he would develop a national human rights program to seek ways to implement the 32 recommendations. Fox pledged to push for reforms in federal and state security forces and urged the judicial branch to adopt practices of "transparent" justice. In an editorial, the daily newspaper El Universal said the changes in the judicial system would have to include comprehensive reforms beyond the supreme court (Suprema Corte de Justicia de la Nacion, SCJN).

A major problem, said the newspaper, is that the court caseload has become too heavy, and many cases, including those related to human rights, are shifted aside. "Why is it that almost all cases have to be brought to the SCJN?" said the editorial. "In other countries, the type of disputes that normally reach our high court first have to go to a lower court, which has the power to determine whether such matters should be allowed to proceed or whether they should go back to a lower court."

**Special prosecutor encounters obstacles in dirty war probe**

Fox's commitment to comply with the UNHCHR recommendations comes as presidentially appointed special prosecutor Ignacio Carrillo is facing new obstacles in his investigation of atrocities committed during the "dirty war" against leftists during the 1960s and 1970s. Carrillo, appointed to head the Fiscalia Especial para Movimientos Sociales y Politicos del Pasado (FEMOSPP) at the beginning of 2002, has obtained legal authority to prosecute officials tied to the Mexican military and the federal police (see SourceMex, 2002-06-19 and 2003-11-12).

The FEMOSPP is an independent agency but is accountable to the Procuraduria General de la Republica (PGR). At the same time, the special prosecutor is under fire for the slow pace of his investigation into atrocities committed in Guerrero state against a leftist insurgency led by a former schoolteacher, Lucio Cabanas Barrientos. Prominent legal scholars like Clemente Valdes and Raul Alvarez Garin are urging Carrillo to summon former Guerrero state prosecutor Eduardo Lopez Betancourt to provide further details of allegations he made in an interview with the daily newspaper La Jornada in late November.

In the interview, Lopez Betancourt offered details of brutal acts committed by the administration of former Guerrero Gov. Ruben Figueroa. The former prosecutor said dissidents dead or alive were loaded onto airplanes at a local air force base and dumped over the ocean so the bodies would never be found.
Another recently uncovered document also contains accounts of atrocities against Cabanas and other dissidents in Guerrero state during the 1970s. The document was released as part of the new freedom of information regulations proposed by the Fox administration and approved by the Mexican Congress in 2002 (see SourceMex, 2002-05-08). The document, authored by an agent of the now-defunct Direccion Federal de Seguridad (DFS), offered gruesome details of procedures used in the capture and interrogation of people suspected of being leftist guerrillas.

The report said suspected rebels were detained as they came down out of the mountains for supplies. "After forcing them to give the information they had about [rebel groups]...they are given gasoline to drink, set alight and abandoned in isolated places, where they turn up disfigured by the effects of the fire," said the document, which bears the seal of the Secretaria de Gobernacion (SEGOB).

While Carrillo has not yet requested any warrants for Lopez Betancourt, a federal judge ordered the arrest of former Guerrero state police chief Isidro Galeana Abarca in what is considered the first formal prosecution against officials involved in the atrocities in the state. Galeana is implicated in the kidnapping and disappearance of school teacher Jacob Najera Hernandez in September 1994 and is a suspect in at least 12 other cases.

Authorities have been unable to take Galeana into custody because he appears to have gone into hiding. His son said Galeana had traveled to an undisclosed location to obtain medical treatment for diabetes, liver, and lung problems. Prosecutors, however, believe the former police chief is well-connected and has no shortage of accomplices to help him go into hiding. "Galeana is a man in ill health, surely not fleeing through the brush, and he won't be able to flee for long," said Carrillo. "We'll track him wherever he is, even if he's in hell."

**Key witness murdered**

Carrillo's efforts to prosecute the authors of the atrocities in Guerrero received a setback with the murder of an important witness who was providing testimony to the FEMOSPP. Horacio Zacarias Barrientos, a former collaborator with security forces who turned state's witness, was found dead near the resort city of Acapulco. Press reports said Barrientos was tortured before being murdered. Human rights organizations said Barrientos was silenced by forces seeking to protect former military and police officials. "There is a new climate of terror; this is a threat to our association and to others who have testified about the crimes of the police and military," said Julio Mata Montiel, director of the Asociacion de Familiares de Desaparecidos (AFADEM), formed by relatives of victims of the dirty war.\

Critics also faulted Carrillo's office for failing to provide greater protection to witnesses. "The PGR, through the special prosecutor's office, should find a way to ensure full protection for all witnesses without having to restrict their liberty and free movement," said Eloy Cisneros Guillen, who spent years in prison during the 1970s for "subversive activities."

Lucio Cabanas' brother David said other high-level officials may have been behind Barrientos' death. "The murder of Zacarias Barrientos is a logical development," said David Cabanas. "It is the result of a plot by the federal government to hide the truth because the release of important
information could affect former Presidents Jose Lopez Portillo and Luis Echeverria Alvarez and Gens. Arturo Acosta Chaparro and Humberto Quiros Hermosillo. "The two generals have been linked to at least 29 cases of torture and forced disappearances (see SourceMex, 2002-10-16).

Carrillo's office has summoned several generals to testify and arrested two former DFS officials in connection with the dirty war. He has promised to continue the campaign to uncover the truth and prosecute those responsible for human rights violations. "New cases will soon be brought before authorities involving 14 government officials who took an active part in repressive acts," Carrillo told the Mexico City English-language newspaper The Herald.

The PGR and FEMOSPP, in the meantime, expect to make several high-profile arrests soon in the disappearance of activist Jorge Piedra Ibarra in 1974. Using powers granted by the SCJN, the FEMOSPP expects to bring former DFS officials Miguel Nazar Haro and Luis de la Barreda Moreno and former Nuevo Leon state police officer Juventino Romero into custody in connection with Piedra's disappearance (see SourceMex, 2003-11-12). "The PGR is preparing the paperwork that would allow the arrest of the three individuals, considered key figures in the dirty war," said the Mexico City daily newspaper La Jornada. (Sources: The New York Times, 12/04/03; Associated Press, 11/27/03, 12/02/03, 12/08/03; Reuters, 11/28/03, 12/01/03, 12/07/03, 12/08/03; The Washington Post, 12/04/03, 12/09/03; Agencia de noticias Proceso, 12/08/03, 12/09/03; El Sol de Mexico, Unomasuno, La Cronica de Hoy, 12/09/03; La Jornada, 11/30/03, 12/02/03, 12/10/03; El Financiero, 12/04/03, 12/10/03; The Herald, Milenio Diario, 12/05/03, 12/08/03, 12/10/03; El Universal, 12/09/03, 12/10/03)

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