

stant, previously an informer for the Central Intelligence Agency, remained in Queens, New York, having been extended protection from deportation. Other members of the coup-era high command were also resident in the United States.

### **European Union**

Finding that “respect for democratic principles has not yet been re-established in Haiti,” in January the European Union (E.U.) terminated consultations with Haiti that had been initiated under the Cotonou Agreement, an aid pact linking the E.U. with African, Caribbean, and Pacific states. As a result, all direct budget aid to Haiti was suspended.

## **MEXICO**

### **HUMAN RIGHTS DEVELOPMENTS**

By ending seven decades of one-party rule in Mexico, the election of President Vicente Fox in 2000 created an historic opportunity to tackle the country’s long-standing human rights problems. In his inaugural address, President Fox promised to seize this opportunity and, in the following months, his administration took encouraging steps toward that end. However, by November, significant progress was still needed in a variety of areas.

President Fox appointed several people known for their promotion of human rights to his cabinet, including Foreign Minister Jorge G. Castañeda and National Security Adviser Adolfo Aguilar Zinser. He also created a new post, the special ambassador for human rights and democracy, to which he appointed Mariclaire Acosta, for years one of the country’s most outspoken human rights advocates. (In September, the position was reconfigured as deputy minister for Human Rights and Democracy within the Ministry of Foreign Relations.)

The Fox administration made a crucial break with Mexico’s past by opening the country to international scrutiny by human rights monitors. In December, Fox announced that he would eliminate visa restrictions that had made it difficult for foreign monitors to gain access to the country on short notice. In March, addressing the U.N. Commission on Human Rights, Foreign Minister Castañeda extended “a permanent invitation to the representatives of international human rights mechanisms to visit Mexico.” In May, the Foreign Ministry co-sponsored a seminar with the office of the United Nations High Commissioner on Human Rights on procedures for investigating torture. In July, it invited the president of the Inter-American Commission on Human Rights to visit Mexico to examine the government’s compliance with past commission recommendations.

Under Fox’s leadership, Mexico became more active in promoting the concept of the universality of human rights principles, a notion that was anathema to pre-

vious Mexican governments. In February, the foreign minister authorized the extradition of former Argentine navy officer Ricardo Miguel Cavallo to face charges in Spain for atrocities committed during Argentina's "dirty war." Cavallo filed a judicial appeal challenging the constitutionality of the foreign minister's ruling, and at this writing a ruling on the appeal was pending.

In October, the Foreign Ministry began working with congressional leaders to secure the ratification of the Rome Statute for the International Criminal Court, together with a reform of the Mexican constitution that would allow international tribunals, in some instances, to exercise jurisdiction over Mexican citizens. The Foreign Ministry also sought the ratification of several other international human rights treaties, including the Inter-American Convention on Forced Disappearance of Persons; the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity; the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography; and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts. Finally, the ministry sought ratification of a treaty recognizing the competence of the U.N. Human Rights Committee to hear individual communications.

In addition to assuming new international human rights obligations, the government promised to promote respect for human rights abroad—in particular, the rights of Mexican citizens residing in the United States. President Fox's February meeting with U.S. President George W. Bush led to the creation of a working group consisting of top officials of both governments with the aim of achieving safe, legal, and humane migration. In October, the Presidential Office for Mexicans Abroad announced that it had reached an agreement with municipal health authorities in U.S. cities to ensure that Mexicans would receive medical attention regardless of their residency status. The National Human Rights Commission (Comisión Nacional de Derechos Humanos, CNDH), the government's autonomous human rights ombudsman, also made migrants' rights a priority.

Unfortunately, the strides made in Mexican foreign policy were not matched on the domestic front, where President Fox promised to intervene in several high profile human rights cases. One was that of General José Francisco Gallardo, who was jailed in 1993 after he openly called for the creation of a military human rights ombudsman's office. In 1997, the Inter-American Commission on Human Rights (IACHR) called for Gallardo's immediate release; yet, as of late 2001, Gallardo remained in jail. In February, his family petitioned the Supreme Court to order the president to comply with the IACHR's recommendation. A court ruling was pending at this writing.

A second case involved peasant environmentalists Teodoro Cabrera García and Rodolfo Montiel Flores, who were illegally detained and apparently tortured by soldiers in May 1999 and then convicted of drug and weapons crimes in August 2000 on the basis of evidence that was planted on them at the time of their detention. In January, President Fox promised that his government would conduct a thorough investigation of the case. The Foreign Ministry's human rights office provided legal advice to the lawyers handling a judicial appeal on behalf of Montiel and Cabrera. In July, a federal appeals court upheld the conviction of Cabrera and Montiel and

they remained in prison until November, when President Fox issued an order for their release as a demonstration of his government's commitment to human rights norms. The investigation of the torture allegations was left to the military prosecutor's office, which had an extremely poor record of probing abuses by the military.

Little progress was made in addressing the underlying problems of the justice system that gave rise to cases like these. Judicial oversight of police practices was seriously inadequate. Judges cited legal precedents that vitiated human rights guarantees by accepting the use of evidence obtained through violations. The lenient sentences given to convicted torturers served to reinforce the climate of impunity.

Soldiers involved in counternarcotics operations also committed abuses against civilians. In January, soldiers on patrol near the town of Lindavista in Guerrero state shot at two unarmed civilians, killing fourteen-year-old Esteban Martínez Nazario. In August, the Baja California state human rights prosecutor's office reported that soldiers had been caught carrying out illegal detentions without arrest warrants. In October, the Center for Border Studies and Promotion of Human Rights reported complaints of illegal detentions carried out by soldiers in the Tamaulipas.

Under Mexican law, cases involving army abuses were subject to military rather than civilian jurisdiction. The military justice system, however, did not adequately investigate and prosecute alleged abuses by the army. Its operations generally lacked transparency and accountability. Following the January killing in Lindavista, however, military authorities did arrest and begin proceedings against five soldiers and an army officer. But this was exceptional and it occurred only after local people took the extraordinary measure of surrounding the army camp and refusing to allow anyone to leave until the killing was investigated. After a day-long siege, army and state government officials arrived and signed an agreement to investigate the shooting and punish those responsible. According to Lindavista residents, the boy who died was the seventh member of the community to be killed by soldiers in recent years, but his was the first case to be investigated. However, residents who organized the protest afterwards reported receiving threats from military personnel.

There was considerable debate within the Fox government over how to address past human rights violations, such as the 1968 massacre of student protestors in Mexico City, and the 1997 massacre of villagers in Acteal, Chiapas. In his inaugural address in December 2000, the president promised to establish a truth commission to investigate violations committed under previous governments. In the months that followed, however, his administration sent mixed signals about whether it would pursue the plan, with Secretary of Government Santiago Creel Miranda openly opposing the idea.

Another area requiring attention was the protection of labor rights. Mexico failed to guarantee free and fair union elections, despite the previous government's May 2000 pledge "to promote the use of eligible voter lists and secret ballot elections" as a step toward this. For example, at the Duro Bag Manufacturing Corporation in Río Bravo, union elections in March were conducted by open ballot, with workers required to vote aloud in front of company management and representatives of the company-favored Revolutionary Confederation of Workers and Peasants (CROC).

Legitimate labor organizing activity continued to be obstructed by collective

bargaining agreements negotiated between management and pro-business, non-independent unions. These agreements frequently failed to provide worker benefits beyond the minimum standards mandated by Mexican legislation, and workers often only learned of the agreements when they grew discontented and attempted to organize independent unions. However, when workers sought to displace non-independent unions, they often suffered anti-union discrimination. In early January 2001, for example, five workers at the Kukdong International México S.A. de C.V. (“Kukdong”) apparel factory in Puebla were discharged, allegedly for asserting workplace grievances and attempting to organize an independent union to replace the CROC. A week later, a majority of the Kukdong workforce began a work stoppage in solidarity with the fired workers. When the stoppage ended, many of the workers who had participated were denied reinstatement by Kukdong and CROC representatives. A concerted campaign on behalf of the workers was mounted by labor and nongovernmental organizations (NGOs) in the United States and Mexico, and largely in response to this effort, multinational corporate buyers began to exert pressure on Kukdong management to address the situation. From mid-February, most workers were allowed to return to the factory, and by September, workers had established an independent union and signed a collective agreement with the company (which had changed its name to Mex Mode).

Certain sections of the population were more vulnerable to rights violations. Among the most vulnerable groups, according to CNDH President José Luis Soberanes, were migrants and indigenous people. Gays and lesbians were also targeted for abuse. In August, for instance, gay activist César Salazar Gongora was kidnapped in the city of Merida, Yucatan, by three young men who raped him, beat him with a stone, cut his ear with a knife and then abandoned him in a nearby village. Salazar Gongora submitted a complaint to local prosecutors. In the days that followed he received dozens of phone calls threatening him with death for reporting the crime. An investigation was launched, but according to local rights advocates, it made no headway until Salazar Gongora, his lawyer and two gay rights advocates met with the state’s attorney general and obtained from him a promise to replace the investigator attached to the case.

## **DEFENDING HUMAN RIGHTS**

In October 2001, human rights lawyer Digna Ochoa was found shot to death in her Mexico City office. A note left by her side warned members of the Miguel Agustín Pro Juárez Human Rights Center, where Ochoa had worked for several years, that the same could happen to them. Ochoa had been subject to repeated threats in recent years because of her work on high profile human rights cases. (Among the people she had defended were alleged guerrillas jailed during the 1990s, and environmental activists Rodolfo Montiel and Teodoro Cabrera Garcia.) She was abducted twice in 1999 and, on the second occasion, interrogated by her assailants. The Zedillo government had failed to conduct thorough investigations of these incidents.

In 1999, the Inter-American Court of Human Rights had ordered the Mexican

government to take special measures to protect the lives of Ochoa and her colleagues. Ochoa received police protection until she left the country in 2000 to work in the United States, but the protection lapsed upon her return to Mexico in April 2001. The Fox government promised to take all possible steps to bring those responsible to justice.

In addition to showing increased openness to international human rights monitors, the Fox government was more willing than its predecessors to consult its critics at home. In March, the Foreign Ministry's human rights office arranged a meeting between the commission that coordinates the human rights agendas of distinct government ministries and a wide range of human rights organizations. It then developed a proposal, based largely on the recommendations of the NGOs, for a "Dialogue Mechanism" that would allow NGOs to contribute to the design and implementation of Mexican human rights policy. At this writing, the proposal had not been implemented.

## **THE ROLE OF THE INTERNATIONAL COMMUNITY**

### **United Nations**

In May, U.N. special rapporteur on the independence of judges and lawyers Param Cumaraswamy visited Mexico to assess the justice system. He met the attorney general, the presidents of the CNDH and the Supreme Court, and other senior officials, as well as NGO representatives. He reported that impunity remained a serious problem within the Mexican judicial system.

### **Organization of American States (OAS)**

In July, the IACHR president Claudio Grossman visited Mexico to assess the new government's compliance with past commission recommendations. Working with the Foreign Ministry's human rights office, the IACHR obtained amicable resolutions in several pending cases. It also issued two new case reports on Mexico and accepted a further case for consideration.

### **United States**

In January, in its annual human rights report, the U.S. Department of State criticized "widespread impunity" that "continues to be a serious problem among the security forces" and noted that the government's efforts to improve human rights "continued to meet with limited success." Despite these criticisms, however, in its relations with Mexico, the U.S. focused less on strong bilateral action to promote human rights than on issues such as economic relations, immigration control, and narcotics.

In April, the U.S. National Administrative Office (NAO)—one of the three national agencies established under the labor side agreement of the North American Free Trade Agreement (NAFTA) to investigate charges of labor rights violation

in member countries—released a report in which it confirmed allegations made by workers in two auto parts factories in Tamaulipas of chemical exposure and injuries from poor ergonomic conditions. The report found that the Mexican government had failed to fulfill its obligations under NAFTA's labor side accord to ensure safe working conditions. Specifically, the Mexican authorities had failed to conduct meaningful workplace inspections, to respond to workers who filed complaints with government agencies, and to provide proper compensation to workers for work-related injuries and illnesses. The NAO recommended ministerial consultations between the U.S and Mexican governments to discuss Mexico's failure to meet its obligations. If these consultations failed to resolve the matter, a panel could be convened to determine appropriate actions, including economic sanctions against the Mexican government. Under the labor side accord, economic sanctions could only be applied if a government was found to have persistently failed to enforce its domestic labor laws in three areas: occupational safety and health, child labor, and minimum wage.

Most of the other twenty-three cases submitted since NAFTA went into effect involved primarily the right to freedom of association, which can lead, at most, to an NAO request for intergovernmental consultation. In the absence of a more effective enforcement mechanism, the labor side accord had a limited impact on workers rights in Mexico.

### **Relevant Human Rights Watch Reports:**

*Military Injustice: Mexico's Failure to Punish Army Abuses*, 12/01

*Trading Away Rights: The Unfulfilled Promise of NAFTA's Labor Side Agreement*, 4/01

## **PERU**

### **HUMAN RIGHTS DEVELOPMENTS**

In a series of dramatic developments in late 2000, the repressive and discredited government of President Alberto Fujimori disintegrated, generating new hope for democracy and human rights. Although Peru was faced with the legacy of a decade of authoritarian rule, both the interim administration of Valentín Paniagua and the new government of President Alejandro Toledo took important steps in 2001 to strengthen democratic institutions and the rule of law, while starting to address long neglected human rights problems.

In November 2000, after Fujimori had gained a third consecutive term of office in widely discredited elections held the previous May, his government collapsed in the midst of a major political corruption scandal. Fujimori fled to Japan, his parents' native country, from where he submitted his resignation by fax. The Peruvian