

## Mexico

Several of Mexico's most pressing human rights problems stem from shortcomings in its criminal justice system. They include torture and other ill-treatment by law enforcement officials, and a failure to investigate and prosecute those responsible for human rights violations.

President Vicente Fox has repeatedly promised to address these problems and has taken important steps toward doing so—establishing a special prosecutor's office to investigate past abuses and proposing justice reforms designed to prevent future ones. Neither initiative has received adequate government support, however, and it is unclear whether President Fox will be able to advance these programs in the two years that remain in his presidency.

### ***Torture, Ill-treatment, and Police Brutality***

Torture is a persistent problem within the Mexican criminal justice system. A factor perpetuating the practice is that some judges accept the use of evidence obtained through violations of detainees' human rights. Prison inmates are subject to abuses, including extortion by guards and the imposition of solitary confinement for indefinite periods of time. Children in some juvenile detention facilities are forced to live in squalid conditions and are reportedly subject to beatings and sexual abuse. Foreign migrants are especially vulnerable to abusive practices by government agents.

Abusive police practices were evident in several high profile cases in 2004. In May, police in Guadalajara, Jalisco, clashed with protesters during the final day of the EU-Latin America summit and, several hours later, swept through the area around the protest, rounding up people as they sat in public parks, rode buses, walked down the street, and as they were being treated in the Red Cross clinic. Police beat some of the detainees during and after their arrests, and held over fifty people incommunicado for two days. During this time, detainees were denied access to legal counsel and subjected to physical mistreatment and abuse. Several former detainees reported being coerced into signing false confessions as a result of torture and other abuses.

In March 2004, President Fox proposed reforms designed to fix features of Mexican criminal procedure that perpetuate and even encourage the use of torture by law enforcement officials. The new legislation would disqualify all evidence obtained illegally and allow confessions to be entered as evidence at trial only when they were made in the presence of a judge and defense counsel. The impact of these provisions was undercut, however, by language that could exempt suspects in organized crime cases from these and other due process guarantees. At this writing, the Mexican Congress had yet to vote on the bill.

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## ***Impunity***

The criminal justice system routinely fails to provide justice to victims of violent crime and human rights abuses. The causes of this failure are varied and include corruption, inadequate training and resources, and a lack of political will. One prominent example is the unsolved murders of hundreds of young women and girls over the last decade in Ciudad Juárez, a city on the U.S. border in Chihuahua state.

The state's efforts to prosecute those responsible for the killings have been fraught with problems. In October 2004, a Chihuahua judge sentenced bus driver Victor Garcia Uribe to successive fifty-year prison terms for the murders of eight young women. Garcia was convicted on the basis of a confession that he said he made under torture and that he later recanted. There was no physical evidence linking García to any of the murders. In 2002, police gunned down García's lawyer, Mario Escobedo Salazar, under highly suspicious circumstances. Escobedo and another lawyer had reported receiving telephone threats for three months from unidentified male callers who warned them that they would be killed if they continued representing García and another suspect. That other suspect died while in police custody. Three other individuals facing charges for some of the Juárez killings have also recanted confessions that they claim were coerced through torture.

A major shortcoming of the Mexican justice system is that it leaves the task of investigating and prosecuting army abuses to military authorities. The military justice system is ill-equipped for such tasks. It lacks the independence necessary to carry out reliable investigations and its operations suffer from a general absence of transparency. The ability of military prosecutors to investigate army abuses is further undermined by fear of the army, which is widespread in many rural communities and which inhibits civilian victims and witnesses from providing information to military authorities.

## ***The Special Prosecutor's Office***

In 2001, President Fox established a special prosecutor's office to investigate and prosecute past acts of political violence, including massacres of student protesters in 1968 and 1971, and the forced disappearance of hundreds of government opponents during the country's "dirty war" in the 1970s. For two years the office's progress was limited by insufficient cooperation from the military and inadequate access to government documents. But in November 2003, the special prosecutor won a landmark decision from the Mexican Supreme Court holding that statutes of limitations do not apply to old "disappearance" cases as long as the victims' bodies have not been found. He then obtained arrest warrants for several high level officials, and secured the arrests of Miguel Nazar Haro in February 2004 and Juventino Romero Cisneros in October 2004. Both are accused of participating in the forced disappearance of Jesús Piedra Ibarra in the 1970s.

But these advances have been counterbalanced by significant failures. All the other suspects have managed to escape arrest. There have been no exhumations, nor any indication that the special prosecutor has made progress uncovering the fate of hundreds of "disappeared" people or in providing

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Mexico with a comprehensive account of the crimes that took place. The special prosecutor's most ambitious move—the indictment of former president Luis Echeverría—was thrown out by a trial judge. The case is now before the Supreme Court.

### ***Labor Rights***

Legitimate labor-organizing activity is obstructed by collective bargaining agreements negotiated between management and pro-management unions. These agreements often fail to provide worker benefits beyond the minimums mandated by Mexican legislation, and workers sometimes only learn of the agreements when they grow discontented and attempt to organize independent unions. Workers who seek to form independent unions risk losing their jobs and are generally left unprotected by the government from retaliatory dismissals.

### ***Freedom of Expression***

Mexican laws on defamation are excessively restrictive and tend to undermine freedom of expression. Besides monetary penalties, journalists face criminal prosecution for alleged defamation of public officials. Journalists have occasionally faced violence at the hands of government agents.

### ***Right to Education***

Mexico has failed to ensure that tens of thousands of rural children receive primary education during the months that their families migrate across state lines to work in agricultural camps. While there is a federal program to provide primary schooling in the agricultural camps, a large number of parents choose to have their children work in the fields rather than attend school. The failure to enforce child labor laws facilitates this choice.

### ***Key International Actors***

As part of a Technical Cooperation Agreement signed by President Fox, the U.N. High Commissioner for Human Rights maintains an in-country office that, in December 2003, produced a comprehensive report documenting ongoing human rights problems and providing detailed recommendations for addressing them. The Fox administration has committed itself to developing a national human rights program based on the report's recommendations, but at this writing had yet to do so. The administration's justice reform proposal incorporates some elements of those recommendations while ignoring others, such as the recommendation to end military jurisdiction over cases involving human rights violations.

The United States and Canada are, along with Mexico, signatories to the North American Free Trade Agreement and its labor side accord, which commits them to enforce their laws protecting workers' rights and grants them authority to hold one other accountable for failing to meet these obligations. Under the accord, when a government of one country receives a complaint of violations committed in one of the other two, it can investigate the charges. However, because the complaint process is

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convoluted and enforcement mechanisms are weak, the accord has had little impact on labor rights violations in Mexico.

Mexico has played a leading role at the international level in pressing for human rights promotion to be considered an integral part of counter-terror efforts. It sponsored resolutions to that end at both the U.N. General Assembly and Commission on Human Rights and successfully pressed the Commission to name an independent expert on the protection of human rights and fundamental freedoms while countering terrorism.