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U.S. Department of State

Mexico Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

MEXICO

Mexico is a federal republic with an elected President, a bicameral legislature, and a constitutionally mandated independent judiciary. On July 6, elections were held for the entire lower house of Congress, one-quarter of the Senate, 6 state governors, and over 1,000 state and local office holders in 7 states. For the first time, the Institutional Revolutionary Party (PRI) lost its absolute majority in the lower house of Congress, and the opposition Democratic Revolutionary Party (PRD) and National Action Party (PAN) made strong gains. This was a marked departure from past elections, as the PRI has won every presidential election since the party's founding in 1929, many of which involved credible allegations of fraudulent practices. For the first time since the 1920's, the people of Mexico City elected a mayor, PRD candidate Cuauhtemoc Cardenas. Although there were post-electoral disputes in a few states, including Colima and Campeche, and small-scale violence in Chiapas, a wide range of Mexican and international observers characterized the elections as largely free and fair and as a significant advance in the democratization process. The judiciary is nominally independent; however, on occasion it has been influenced by the executive branch. Corruption and inefficiency are problems and are more widespread in some states than others.

Several southern states, most notably Guerrero, Oaxaca, and Chiapas, continued to suffer politically motivated violence. Peace talks between the Government and the Zapatista National Liberation Army (EZLN) stalled in September 1996 following disagreement regarding the implementation of agreements signed in February 1996 on indigenous rights. However, intense informal contacts continued through January 1997. The army and the EZLN have not clashed since the Government unilaterally declared a cease-fire on January 12, 1994. As part of continuing unrest in Chiapas, on December 22 an armed

group allegedly organized by the PRI mayor massacred 45 indigenous persons in the village of Acteal, which increased already high tensions in the state. President Zedillo immediately ordered his Attorney General to conduct a thorough investigation. This investigation resulted in the arrest of persons allegedly connected to the massacre and continued at year's end. A new group of uncertain origin and size, the Popular Revolutionary Army (EPR), made its appearance in June 1996. The Government considers the EPR a terrorist organization and has vowed to bring the group to justice.

Police forces maintain internal security. The army is responsible for external security but also has domestic security responsibilities. The military withdrew from Federal District police responsibilities effective December 22. The security forces, including the federal and state judicial police, federal highway police, and local police, are under the control of elected civilian officials. However, corruption is rife within police ranks. Members of the security forces continued to commit numerous human rights abuses.

Mexico has a market-based, mixed economy, which the Government has been progressively deregulating and opening. An ambitious program of privatization has reduced state-owned companies from more than 1,150 to less than 200. During the third quarter, about 29 percent of gross domestic product (GDP) came from the industrial sector, 5 percent from agriculture, and 66 percent from the service sector. There is significant subsistence agriculture, and 25 percent of the populace lives in rural areas. Leading exports include automobiles, manufactured and assembled products (including electronics and consumer goods), and petroleum. Per capita GDP was about \$4,100, but consumption and wages remained below 1994 levels, producing high levels of crime and social tension. There are severe and growing inequalities in income distribution, with large numbers of people living in extreme poverty in rural areas, shanty towns, and urban slums. In February the Government initiated an antipoverty program (renamed Progresa in August) intended to help 500,000 of the poorest families by year's end.

The Government generally respected the human rights of its citizens, although serious problems remained in some areas, and some states present special concerns. Major abuses included extrajudicial killings, disappearances, torture, illegal arrests, arbitrary detentions, poor prison conditions, lengthy pretrial detention, lack of due process, corruption and inefficiency in the judiciary, illegal searches, violence against women, discrimination against women and indigenous persons, some limits on worker rights, and extensive child labor in agriculture and in the informal economy. Vigilante killings, attacks against journalists, and attacks and threats to human rights monitors were also problems.

The Government continued, with limited success, its attempt to end the "culture of impunity" surrounding the security forces through reforms in the federal Attorney General's Office (PGR). The PGR continued to restructure to combat internal corruption. Major steps included the reorganization of its subordinate bodies, the dismissal of hundreds of employees, training programs targeting both new and long time agents, and the creation of new units, all of whose members must undergo an in-depth vetting process including polygraphs, financial and background investigations, and drug testing. The Government also continued its support for the government-funded National Human Rights Commission (CNDH) and for implementation of a wide-ranging package of other police and judicial reforms.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

Members of the security forces committed extrajudicial killings. According to Amnesty International (AI), three persons died in June due to torture by police (see Section 1.c.).

On October 2, the Mexico City Attorney General's office charged a police officer with four murders related to a September 8 shooting during a police sweep of the neighborhoods of Buenos Aires and Doctores. Subsequent investigations resulted in the arrest of additional officers. In November rebellious security force members barricaded themselves in their barracks to block the arrest of individuals in connection with the abduction, torture, and killing of six youths in those sweeps. They surrendered to fellow soldiers after a 14-hour standoff. At year's end, 32 police officers were in jail, including three high-ranking military officers of the unit on suspicion that they had tried to cover up the killings. The CNDH and the Attorney General's office were also conducting investigations.

In November police officers in Acapulco, angered by a traffic dispute with a taxi driver, tied him up in his taxi, poured gasoline over him, and burned him to death.

On December 25, a spokesman for the fifth military zone located in Guadalajara announced that 28 officers and enlisted men had been implicated in kidnaping, torture, and killing that occurred in the municipality of Zapopan on December 14-15. In that incident, 20 youths were allegedly held against their will and tortured. Military personnel from an air base in Ocotan, near Zapopan, apparently kidnaped 23-year-old Salvador Jimenez Aguilar, tortured him, and then killed him. After interrogating soldiers serving at the air base, military officials found his body on December 20. The military justice system assumed jurisdiction of the investigation and prosecution from the federal authorities (see Section 1.e.).

Police and vigilantes acting on behalf of local landowners continued to commit extrajudicial killings while dislodging peasant squatters from rural lands in several states. To expand communal land holdings, for decades peasants have invaded private lands and petitioned for government recognition of the seizures.

Some large landowners and local political bosses in Chiapas state maintain private militias to defend their property from peasant land invasions and to intimidate local opposition. This problem is especially acute in some northern regions of the state, where the group Development, Peace, and Justice ("Desarrollo, Paz y Justicia"), headed by autonomous local political bosses loosely affiliated with the PRI, is based. A number of local armed groups, including Peace and Justice and the "Chinchulines," reportedly banded together to form an anti-Zapatista indigenous front. State authorities do not effectively impede the establishment of these militias, which reportedly often employ police and military personnel. In December there were press reports that the Chiapas state government provided financial assistance to the Peace and Justice group in August, under the auspices of agrarian reform.

On March 14, in the community of San Pedro Nixtalucum, El Bosque municipality, Chiapas, police killed 4 peasants and detained 24 others during a confrontation between the peasants and members of the PRI. The elected mayor of El Bosque is a member of the PRI. Prior to the events of March 14, PRD supporters had contested the electoral results, set up a "popular government," and held 12 PRI party members, including the municipal agent, hostage in the town hall. The PRD action was reportedly in response to the arrest of PRD members by the PRI municipal government. A group of about 26 state police officers arrived in San Pedro to release the hostages. Armed villagers surrounded the police. An attempt to negotiate broke down when shots were fired, four peasants were killed, and six police were wounded. The police withdrew and returned later with army support and arrested 24 peasants. During the clash, the police called in a state police helicopter for support. This helicopter, used for reconnaissance and for evacuating wounded, was not armed. According to various reports, one or two police officers inside the helicopter fired at the crowd, both to back up the police on the ground and

possibly to clear a landing zone. According to the Fray Bartolome de Las Casas Human Rights Center, the authorities charged the 24 arrested peasants with kidnaping, criminal association, and assault; they also charged 13 of the 24 with homicide. In addition, members of Peace and Justice expelled the people of San Pedro from the town. Following negotiations that were assisted by the state government, a "nonaggression" agreement was signed on May 8 permitting the peasants to return home. In late May, the authorities released all 24 detained peasants, 3 of whom claimed to have been tortured by police. On May 31, the four widows received compensation from the state government. The CNDH has conducted an investigation, and a report was pending at year's end.

The town of Chenalho, Chiapas state, suffered an increasingly tense political situation during the year. Since May, increased tension between PRI supporters and EZLN sympathizers led to the displacement of 6,000 indigenous people, the injury of at least 35 persons, and the deaths of 16 people. PRD and EZLN sympathizers tried to set up a "popular government" in the town, the mayor was alleged to have made threats against the parish priest, and a PRI member was ambushed and kidnaped on December 17. On December 22, an armed group allegedly organized by the PRI mayor massacred 45 indigenous persons in the nearby village of Acteal. At President Zedillo's direction, federal authorities opened an investigation headed by Attorney General Madrazo and arrested 46 persons in connection with the massacre, including the mayor of Chenalho and the state police chief. The CNDH also opened an investigation, and the CNDH president criticized the state government's "negligence" in not responding more quickly to reports that the massacre was underway. In response to a CNDH recommendation, the federal Attorney General's office broadened its investigation to include senior officials in the Chiapas state government. This investigation continued at year's end. The state governor and his cabinet resigned. The Interior Secretary and the Government's chief negotiator for Chiapas both resigned following the Acteal massacre.

According to statistics compiled by the District Attorney's office for Chiapas state in 1996, approximately 500 peasants had been killed in the previous 3 years as a result of violence in the northern municipalities of Tila, Sabanilla, Salto de Agua, and Tumbala. The Fray Bartolome de las Casas Center for Human Rights reported that at least 2,000 indigenous families had abandoned their lands for fear of violent attacks by the Peace and Justice group.

Police continued to evict, detain arbitrarily, and destroy the homes of peasant leaders in the state of Veracruz. Land disputes in the state, especially those involving ranchers and indigenous persons, are the principal cause of such violence. Police often fail to investigate killings of peasants by ranchers.

On April 10, 1996, citizens of Tepoztlan, Morelos, were marching on the "Emiliano Zapata route" to Tlaltizapan in order to present a petition to President Zedillo protesting the planned development of a golf course on communal lands. The police stopped the protesters and fired shots; the protesters responded by fleeing and defending themselves with rocks. In the melee, police shot and killed one protester, Marcos Olmedo. The governor of Morelos denounced the shooting, saying that police were under standing instructions not to use firearms against demonstrators. According to the Miguel Augustin pro Juarez Center for Human Rights, the police group responsible for the shooting has been disbanded. The authorities suspended 60 police for abuse of authority and arrested 11 police and 2 high ranking officers for presumed responsibility for the killing of Olmedo.

On July 13, the courts found 28 police officers and 11 state government officials, including the former director of operations of the state police, guilty of homicide and abuse of authority in the June 28, 1995, slaying of 17 peasants in Aguas Blancas, Guerrero. The former state interior department director Esteban Mendoza Ramos received 26-1/2 years in jail. The courts tried, found guilty, and sentenced other officials from the state interior department and the state attorney general's office to 3 years and 3 months in jail for attempting to alter video evidence in order to show falsely that the police had reacted

in self-defense against armed peasants. The courts also sentenced Rosendo Armijo de los Santos, the former undersecretary for the state security and highway office, to 5 years for not properly carrying out his public duties, and Orlando Soberanis Moreno, former state prosecutor, to 8 months for falsifying documents. Four other officials were not sentenced due to constitutional writs of protection ("amparos").

There were no new developments in the cases of Raul Salinas de Gortari, brother of the former president, and Mario Ruiz Massieu, former deputy attorney general, who face charges stemming from the assassination of then-PRI secretary general Jose Francisco Ruiz Massieu in September 1994.

There were no new developments in cases pending from 1992-95, involving Gaston Ayala Beltran, a former state judicial police officer; Othon Cortez Vazquez, the alleged second gunman in the March 1994 assassination of PRI presidential candidate Luis Donaldo Colosio; and police officer Jose Antonio Verduzco Flores, freed in the beating death of U.S. citizen Mario Amado.

According to the January-June PRD human rights report, 79 PRD activists were killed during 1996, bringing the total number of PRD members killed since 1994 to 253. The PRD reported 180 cases of human rights violations against its partisans. Arbitrary detentions were the most reported crime with 90 complaints, followed by homicide, 32 cases; torture, 31 cases; and missing persons, 22 cases. The PRD is working with the Secretariat of the Interior and with the CNDH on this issue.

b. Disappearance

There were credible reports by the media and NGO's of disappearances during sweeps by security and military forces in Oaxaca and Guerrero in attempts to round up EPR members. The EPR claimed that seven of its members have disappeared: Gilberto Romero Vasquez, Gregorio Alfonso Alvarado Lopez, Miguel Castro Monillo, Fredy Nava Rios, Benito Bahena Maldonado, and EPR members known as "Gustavo" and "Elsa." The Miguel Agustin pro Juarez Center for Human Rights also cited seven disappearances related to anti-EPR sweeps. While denying that any individuals had been illegally detained, the Government has offered to investigate reports of disappearances.

Since 1990, the CNDH has had a program to investigate disappearances. For the May 1996 to May 1997 period, the CNDH reported that it was able to resolve 26 cases of reported disappearances. Of those cases, it found that 22 of the people were alive or there was evidence that they were alive, and the remaining 4 were found dead or presumed to be dead. This brought the total cases of presumed disappearances investigated by the CNDH to 175, of which 115 persons were found to be living and 40 were found dead or there was evidence that they died.

The police reportedly kidnaped a journalist in September (see Section 2.a.). Military personnel kidnaped, tortured, and killed a civilian near Ocotan, Guadalajara, in December (see Section 1.a.).

According to the Miguel Agustin pro Juarez Center for Human Rights, 20 people have disappeared in the northern states of Sinaloa, Baja California, and Chihuahua due to actions by narcotics traffickers. Press reports indicated that as many as 100 people disappeared during the year in the state of Chihuahua. These disappearances were also attributed to narcotics traffickers and to corrupt police officers in their pay. The PGR appointed a special investigator to look into these disappearances.

Amnesty International reported that two people who disappeared in 1995 still remain missing. On May 24, 1995, the leader of the Peasant Organization of the Southern Sierra (OCSS), Gilberto Romero Vasquez, disappeared after his organization had presented a series of demands to state authorities. AI also reported that in October 1995, Cuauhtemoc Ornelas Campos, a journalist and human rights activist,

disappeared after receiving anonymous threats for publicly criticizing human rights abuses by local officials.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture; however, it continues to be a serious human rights problem. Although the Constitution excludes as evidence confessions obtained in the absence of the accused's defense attorney, courts have nevertheless continued to admit as evidence confessions extracted under torture. Members of the security forces continued to torture and abuse detainees. The most commonly used methods of torture were threats, beatings, asphyxiation, and electric shocks. Members of the security forces also reportedly used torture against members of the EPR and ELZN (see Section 1.g.).

There are persistent reports by NGO's of widespread use of torture by police and security forces. The CNDH reported in May that torture dropped from the 17th to 24th most common type of complaint, and the actual number of complaints of torture decreased by 22 percent, with a total of 46 complaints during the year. Of the 46 complaints, the CNDH referred 21 to state human rights authorities. Of the 25 cases handled by the CNDH, 1 occurred in 1997, 9 in 1996, 11 in 1995, and the rest in prior years. The CNDH has made seven recommendations, which were being implemented.

The CNDH, however, does not maintain statistics on torture complaints made to state human rights commissions. Of the 31 states and the Federal District, only Hidalgo lacks a law prohibiting torture. Poorly trained and equipped to investigate crimes, police officers continued to attempt to solve crimes by rounding up likely suspects and then exacting confessions from them. Many state human rights commissions received reports of torture allegedly committed by police.

The authorities punish few officials for torture, which continues to occur mainly because confessions are the primary evidence in many criminal convictions. Many victims do not report, or do not follow through on, their complaints against the police for fear of reprisals.

According to AI, at least three people died as a result of torture. In June 25 members of the Amuzgo Indian community of Coachapa, Guerrero state, suspected of theft, were subjected to beatings, prolonged hanging by the wrists, and semi-asphyxiation by state police to extract a confession. Among them was 16-year-old Alfredo Ramirez Santiago, who was hanged by the neck from a tree and beaten on the head and body. AI also reported that peasant activists in Guerrero and Oaxaca states were tortured to confess to having links with the EPR. Members of the army and state police allegedly subjected eight people arrested in July in Guerrero and Oaxaca state to beatings, prolonged hanging by the wrists, electric shocks and semi-asphyxiation for up to 7 days. The authorities charged them with having links with the EPR on the basis of statements extracted under torture and held them in prison awaiting trial at year's end. Alleged EPR members who were released on December 5 claimed that they had been psychologically abused while being held.

In September police apparently abducted, tortured, and killed six youths in Mexico City; in December military personnel were arrested for torturing and killing a citizen near Guadalajara (see Section 1.a.).

At the invitation of the Government, Nigel Rodley, the U.N. Special Rapporteur on Torture, visited Mexico August 5-8 to investigate allegations of torture, including complaints of mistreatment of alleged members of the EPR and EZLN. Rodley met with many government officials. He also met with members of prominent Mexican human rights NGO's, including the Human Rights Network (which has 46 member NGO's), the Mexican Committee for the Promotion and Defense of Human Rights, the Francisco de Vitoria Human Rights Center, and the Miguel Augustin pro Juarez Center for Human

Rights.

In testimony before Congress on September 10, Attorney General Jorge Madrazo, former head of the CNDH, stated that torture and intimidation are a habit with the police. Madrazo also highlighted steps being taken to address the problem of corruption. He said that, because of widespread corruption and penetration by narcotics traffickers, he disbanded the former Institute for National Drug Combat and replaced it with a special prosecutor's office for crimes against health. As part of this clean up, the authorities dismissed 270 police officers and held 192 of them for trial. In the first 9 months of the year, the Attorney General's office organized 19 training courses, including 1 for prosecutors. Madrazo also called for new laws to strengthen the legal mechanisms for fighting crime, improve training programs, and reform the penal system.

In February then-Mexico City police chief General Enrique Salgado announced a plan to professionalize the police force through a training and reassignment program. Following the September incident in the Buenos Aires neighborhood (see Section 1.a.) and the related arrest of 32 police and military officers, this program came under increasing public criticism. With the December 5 inauguration of Mexico City mayor Cuauhtemoc Cardenas, and his statement that active duty military personnel would no longer serve in Federal District police roles, the military announced plans to end this deployment, effectively bringing an end to the training program. The mayor named retired army Colonel Roberto Debernardi Debernardi as police chief. Early in the Cardenas administration, two lower ranking police officials accused of past human rights violations resigned.

Robberies committed by policemen are common. In a number of cases in northern border states, judges, police, and persons posing as attorneys extorted large sums of money (\$3,000 to \$10,000) from tourists to "fix" real or fabricated infractions. State human rights commission authorities in Coahuila widely published a toll-free telephone number for reporting police abuses, but, according to the Coahuila human rights commission, there were few if any such calls.

Most citizens view the police as corrupt and unhelpful: 64 percent of crime victims in Mexico City did not report incidents to law enforcement authorities. According to a reliable 1995 poll, 75 percent of those surveyed felt that the justice system was riddled with corruption. Police academies in some states, such as Coahuila, Durango, and Sonora, sought to improve police conduct by offering special courses aimed at greater professionalization. However, such progress among the various police forces is highly uneven.

Attorney General Madrazo continued to promote a wide-ranging package of reforms to reduce corruption and promote professionalism among federal police and prosecutors. The reform package includes new training and recruitment procedures for the PGR, closer supervision of PGR officers, and a reorganization of the PGR's structure. It also calls for creation of new units, all of whose members must undergo a comprehensive vetting process, including polygraph and drug testing, as well as financial and background checks. The difficult nature of this process is illustrated by the fact that several hundred of the 1,200 PGR officials dismissed by former Attorney General Antonio Lozano have, on the basis of judicial appeals, won reinstatement in the PGR.

In some cases police officers dismissed in one state find law enforcement employment in another. The CNDH discovered that even when the authorities censured some officers in one law enforcement job, they moved on to other positions and were subsequently charged again with human rights abuses. In an effort to remedy this situation, the CNDH publishes lists of censured public servants in its annual report and monthly newsletters. In addition, the Government has established a national security register to keep track of censured police officers and address this problem.

Prison conditions are poor. Many prisons are staffed by undertrained and corrupt guards, and some lack adequate facilities for prisoners and are overcrowded, despite an early release program endorsed by the CNDH and legal reforms reducing the number of crimes that carry mandatory prison sentences. Prisoners complain that they must purchase food, medicine, and other necessities from guards or bribe guards to allow the goods to be brought in from outside. Drug and alcohol use is rampant in prisons. Frequently, prisoners exercise authority within a prison, displacing prison officials. Influence peddling, drug and arms trafficking, coercion, violence, sexual abuse, and protection payoffs are the chief methods of control used by prisoners against fellow prisoners in a form of self-government within the system. Conflicts between rival prison groups, often involved in drug trafficking, continued to spark lethal violence. According to a study conducted by the CNDH, from March 1994 to March 1996, over 50 prison riots occurred.

While the authorities prosecuted a few prison officials for abusing prisoners, it was more common to dismiss them or to charge them with only minor offenses. The director of the Mexico City prison system resigned in April, a day after the city's Human Rights Commission denounced prison abuses; one of the prison directors also resigned.

The penal system comprises 4 federal penitentiaries, 8 prisons within the Federal District, 275 state prisons, and 151 municipal jails, for a total of 438 facilities. According to the Secretary of Government's program for prevention and social readaptation, 1995-2000, the prison population has increased annually by 25 percent, resulting in the space designed to hold 99,650 prisoners becoming overcrowded. In July statistics revealed that the prison population of the Federal District far exceeded its capacity. In space for 8,339 inmates, there were 12,598 prisoners, up from 11,086 in November 1996, an increase of 25 percent. A CNDH study also found overcrowding in prisons in the states of Baja California, Sonora, Tamaulipas and Michoacan. The national penal system held 109,956 inmates, 10 percent above capacity. One new prison, in the state of Mexico, opened in January; four more are under construction.

Although the Constitution calls for the separation of juveniles from older prisoners, men from women, and convicted criminals from prisoners held in custody, in practice, this article is routinely violated in each aspect. Overcrowding and corruption within the prison system results in mixing of these groups. There were reports of prison guards raping female prisoners and an informal prostitution ring operated by both prison guards and prisoners between the all-female penitentiary of Tepepan and the all-male facility in Reclusorio Sur in Mexico City. Prison officials sometimes encourage women to form sexual liaisons with male prisoners and guards. In some cases, officials coerce women into sexual relationships.

There is one "mixed" prison in Cuernavaca, which offers rehabilitative activities such as vocational and recreational workshops. This prison also permits prisoner-run restaurants, other facilities, and includes a church inside the prison. The prison authorities allow visits from outside the prison, including overnight stays by children of detainees.

The CNDH has a program to inspect prisons (from May 1996 to May 1997, the CNDH made 170 visits to 53 prisons in 27 states) and to investigate prisoner complaints.

There is no specific law or regulation regarding the ability of NGO's to visit prisons. In practice, such prison visits are allowed and are common. For example, members of the Democratic Lawyers National Front represented prisoners alleged to be members of the EZLN and were allowed to visit them in prison. In July the Government agreed to allow the International Committee of the Red Cross (ICRC) to conduct visits to a number of persons held in places of detention (including high-security jails). Between August and September, the ICRC visited 108 people detained in 22 prisons. These persons are detained on the basis of their alleged links with illegal armed groups such as the EPR.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, the police continued to arrest and detain citizens arbitrarily. The law provides that the District Attorney may not detain an accused person more than 48 hours before presenting the person before a judge, but it makes an exception for persons apprehended in the act of committing a crime. In November 1996, Congress amended the Penal Procedures Federal Code to apply this exception to acts committed up to 72 hours prior to detention. Mexican Commission for Defense and Promotion of Human Rights strongly criticized this change.

The Constitution provides that the authorities must try an accused person within 4 months if the alleged crime carries a sentence of less than 2 years, or within 1 year if the crime carries a longer sentence. The law requires that prisoners awaiting trial be housed separately from those convicted. In practice, judicial and police authorities frequently ignored these time limits. According to the CNDH and NGO's, the authorities often held criminal defendants with convicted prisoners and for longer than allowed by law before going to trial.

Arbitrary arrest and detention, often linked to corrupt police, continued to be among the most common human rights abuses. The Mexican Commission for Defense and Promotion of Human Rights calculated 23 illegal or arbitrary detentions between January and September. Using different criteria, for the period May 1995 to December 1996, the CNDH reported 303 findings of arbitrary detention and 36 cases in which it found that authorities held prisoners incommunicado. The human rights commission for the Federal District reported 272 complaints of arbitrary detention for the period from October 1995 to September 1996. It found the most common complaint to be delay in the administration of justice, with 602 complaints. The commission was critical of numerous arrest orders in the Federal District being ignored or unresolved.

On March 3, the police arbitrarily detained two Jesuit priests in Palenque, Chiapas (see Section 2.c.).

In April 1995, the police arrested Mauricio Franco Sanchez for physically blocking efforts to build a golf course in an environmentally protected area in Tepoztlan, Morelos. In January 1996, a court sentenced Franco to a term of 10 years and 7 months, but he was released in July 1996. The police also arrested Jose Carillo Conde and Gerardo Demesa Padilla, members of the Tepoztlan United Committee (CUT), who protested construction of the golf course and held them on charges of participating in a murder. Several human rights groups contended that the police were really holding these individuals because they protested construction of the golf course. Jose Carillo was released in October 1996, together with Fortino Mendoza, another CUT activist who had been arrested in October 1995. In September Demesa was sentenced to 8 years in prison for being an accessory to manslaughter in the death of Pedro Margarito Barragan Gutierrez. He is appealing the sentence. On December 11, the CNDH recommended that Demesa be released from prison for lack of credible evidence against him. The CNDH also recommended that the local authorities investigate apparent acts of corruption in handling communal territory and that they cancel the project. In response to local protests, the developers of the proposed golf course and housing and resort complex canceled the project in April 1996.

Detention of opposition political activists is neither widespread nor systematic. Nevertheless, there were scattered reports of such detentions.

Judges often failed to sentence indigenous detainees within legally mandated periods. For the period from June 1994 to December 1996, the CNDH reviewed 8,661 files of indigenous persons detained in Mexican jails. The Commission recommended the immediate release of 1,727 persons in 1996. By the

end of 1996, the authorities had released 998 of them; 729 cases were still pending. Of those states with the largest numbers of indigenous prisoners, the CNDH reviewed 2,222 cases in Oaxaca, and recommended 407 releases, of which 296 have been accomplished; 1,219 cases in Veracruz, with 331 recommendations for release and 245 releases; and 639 cases in Puebla, with 157 releases recommended, and 61 releases.

Federal prosecutors continued to adhere to the recommendation by the National Indigenous Institute (INI) that they drop charges against first-time offenders accused of drug cultivation, as drug traffickers often forced indigenous defendants, who do not understand the legal significance of their actions, to grow the crops. The INI also supports programs to provide translators for indigenous defendants and to assist them in obtaining bail bonds.

Many detainees report that officials ask them to pay bribes for release before formal arraignment; many of those arrested report that they are able to bribe officials to have them drop charges before they go before a judge. Corruption is rampant throughout the system.

The law does not permit exile, and it is not practiced.

e. Denial of Fair Public Trial

The judiciary is nominally independent; however, on occasion it has been influenced by the executive branch. Corruption and inefficiency are problems and are more widespread in some states than others. Judicial reforms have begun to address some of these problems.

The federal court system is composed of 183 district courts, 74 circuit courts of appeal, and a Supreme Court. In 1995 President Zedillo proposed and Congress approved extensive judicial reform legislation. These reforms included: selecting most lower and appellate federal court judges and law secretaries by competitive examinations; creating an independent judicial council to administer the federal courts (except the Supreme Court, which administers itself); and requiring two-thirds of the Senate to confirm the appointment of a Supreme Court justice. The reforms also provided the Supreme Court with the authority to strike down a law for unconstitutionality (one-third of the Congress, one-third of a state congress, or the Attorney General must ask the Supreme Court to review the constitutionality of a law before it can be declared unconstitutional).

Efforts to implement these reforms continued throughout the year. The judicial council created 27 new judicial tribunals and plans to create 20 more; established the basis and procedures for selecting new members of the judiciary and for promoting and transferring current members; conducted reviews of the performance of 48 judges during their initial 6- year probationary period prior to granting life tenure (three did not receive tenure); determined 151 new assignments and 180 reassignments of judges; handled 1,025 administrative complaints and found 70 to be well based; and reconstituted the institute in charge of training of the federal judiciary.

Since the creation of the federal judicial council in early 1995 to the end of the year, seven judges have been investigated for the alleged protection they granted to criminals, including drug traffickers. Some of these judges are accused of having abused the amparo (a writ protecting one's constitutional rights) to benefit the accused criminals. Other judges face investigations for the lenient sentences they handed down in specific cases of serious crimes. The PGR has begun formal legal proceedings only in three of the seven cases. In two other cases, the PGR forwarded administrative complaints against the judges to the federal judicial council. These complaints allege inefficiency in the accomplishment of legal proceedings; and the two judges do not face criminal charges. The remaining two judges are being

investigated for allegedly committing irregularities in the performance of their duties.

The judicial trial system is based on the Napoleonic code and consists of a series of fact-gathering hearings at which the court receives documentary evidence or testimony. In addition, officials may add notarized documents to the official case file without authentication. A judge in chambers reviews the case file and makes a final written ruling based thereon. The record of the proceeding is not available to the public; only the parties and, by special motion, the victim may have access to the official file. The Constitution provides for the right of the accused to attend the hearings and challenge the evidence or testimony presented, and the Government respects these rights in practice. In general, court hearings are open to the public and it is common to find not only the accused but also relatives and journalists in the court rooms.

Journalists covering judicial proceedings must rely on statements of attorneys outside the courtroom as to what occurred inside. A judge in chambers reviews the case file and makes a final written ruling based thereon. The record of the proceeding is not available to the public; only the parties and, by special motion, the victim may have access to the official file.

While there is a constitutional right to an attorney at all stages of criminal proceedings, in practice, the authorities often do not assure adequate representation for many poor defendants. Attorneys are not always available during the questioning of defendants; in some instances a defense attorney will attempt to represent several clients simultaneously by entering different rooms to certify that he was present although he did not actually attend the full proceedings. In the case of indigenous defendants, many of whom do not speak Spanish, the situation is often worse. The courts do not routinely furnish translators for them at all stages of criminal proceedings, and thus defendants may be unaware of the status of their case.

The law does not require civil trial of soldiers involved in civil crimes, and the military continues to handle such cases. The Constitution provides for military jurisdiction for crimes or offenses involving any violation of military discipline. In cases in which a member of the military commits a crime and is arrested by civil authorities, the military has the right to immediately request transfer of the case to military jurisdiction. The Constitution allows civilian authorities to assume jurisdiction in cases involving military personnel accused of common offenses. Several NGO's complained about the growing militarization of the country and expressed the fear that military abuses would not be subject to civil jurisdiction. This remains a subject of ongoing public debate, with some sectors of society in favor of greater use of the military to combat crime.

Some human rights groups claim that activists arrested in connection with land disputes and other civil disobedience activities are in fact political prisoners. The Government asserts that the system fairly prosecutes those charged in sometimes violent land invasions for common crimes, such as homicide and damage to property.

f. Arbitrary Interference With Privacy, Family, Home, or Correspondence

The Constitution provides for the rights to privacy, family, home, and correspondence. The law requires search warrants, but there are credible claims that unlawful searches without warrants are common.

Police evicted peasants from their homes and destroyed the homes of peasant leaders in the state of Veracruz (see Section 1.a.).

In November 1996, Congress passed the federal Law against Organized Crime which, among other

changes, allows for electronic surveillance with a judicial order. The law prohibits electronic surveillance in cases of electoral, civil, commercial, labor, or administrative matters.

g. Use of Excessive Force and Violations of Humanitarian Law In Internal Conflicts

There were no reported clashes between troops stationed in Chiapas and the EZLN during 1997. Negotiations between the EZLN and the Government have not progressed since January. The Government contends that it remains committed to implementation of the San Andres accords on the rights of indigenous peoples and to a negotiated settlement. In September the EZLN organized a peaceful march on Mexico City to demand, among other things, implementation of the agreement on indigenous rights. A political movement, the Zapatista National Liberation Front (FZLN), was launched in September to pursue Zapatista goals through political action. The Government has invited the EZLN to recommence negotiations, but the EZLN refused to return to the dialog until the Government takes steps that the EZLN believes are necessary to implement the San Andres accords. The Government welcomed the EZLN march on Mexico City and the creation of the FZLN as representing a shift from military to political action.

The military continues to deny any responsibility for abuses committed during the early stages of the Chiapas rebellion in 1994. The military authorities who have jurisdiction failed to punish any military personnel or government officials for committing abuses, although the CNDH issued an interim report in May 1994 finding that there was reason to believe that the military had injured or killed civilians in aerial attacks, and that there were summary executions, illegal detentions, and instances of torture.

In January 1994, the army occupied the town of Ejido Morelia in the state of Chiapas. The army allegedly took three men into the church where they were tortured before being taken away. Their bodies were found 3 days later in a nearby town. This case was brought before the Inter-American Commission on Human Rights (IACHR). The IACHR made a number of recommendations to the Government in October, which reportedly included that the Government appoint a special prosecutor, take legal action against the accused, and make payments to the victims' families. The Government was given 3 months to respond to the recommendations; the authorities have said that they are prepared to punish those responsible.

In May and June, the EPR launched small-scale attacks against the military in Guerrero. Prior to the July 6 elections, the EPR declared a truce. Following the elections, an EPR leader told the press that the EPR did not plan to launch attacks in the near future because such actions would not command popular support.

Sweeps conducted by police and military personnel searching for the EPR resulted in a number of arrests. Many NGO's expressed concern that the security forces tortured some of the detainees. There were reports of torture in connection with arrests by security forces searching for members of the EPR in the state of Guerrero. Soldiers detained Jose Nava Andrade, a member of the Organization of Towns and Settlers of Guerrero, in July 1996 and allegedly tortured him in an attempt to force him to confess membership in the EPR.

Amnesty International reported that in July 1996, Hilario Mesino Acosta, an OCSS leader in Guerrero, was arrested in Mexico City on charges of participating in violent activities. He was allegedly tortured and threatened. Previously, his daughters had received death threats after lodging complaints about the Aguas Blancas massacre. The CNDH examined the arrest warrants executed for Mesino and interviewed him 2 days after his arrest. According to the CNDH, Mesino denied that he had been mistreated and was aware of the judicial events leading to his detention. A CNDH expert verified that Mesino showed no

signs of mistreatment.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice. Mass media are not subject to formal censorship from any element of government.

The media environment is complex. The media are more free and independent than at any time in the country's history. Yet, there are more credible reports of attacks on journalists in the exercise of their profession than in recent years. Many of these attacks are carried out by drug trafficking organizations or by corrupt security personnel in the pay of such groups.

In the capital and in other major urban centers, the media show a high degree of editorial independence. Direct criticism of the Government, especially in print media, is severe and commonplace. Television news and public affairs programs are no longer the automatic "propaganda services for the President and top officials" described by the Committee to Protect Journalists as recently as 1995. Television provided full and generally balanced coverage of all political parties during the 1997 electoral campaign and continued to do so after the elections.

A complex set of relationships has developed between the media and the Government over the years. Some elements of that relationship are diminishing; others continue to tilt the editorial independence of many news organizations toward the Government. The key elements of that system are: coincidence of interest between media owners and the Government; broadcast licensing; official advertising (some of it disguised as news coverage); a state-run newsprint sales company; and a variety of cash and noncash payments to journalists from various levels of government.

The greatest concentration of official influence is in television. Television broadcasters give a contribution of air time--in the form of a 12.5 percent tax on advertising revenues--instead of actual cash payments. This system lowers effective tax rates of the broadcasters and assures the Government access to this powerful medium.

Greater pluralism in government and generational change in media leadership are beginning to separate government and media interests at the top. Following a prolonged fight for control of the corporation, the new director of the media giant Televisa publicly stated his commitment to editorial independence. This was in marked contrast to his predecessor's publicly stated pride in being a "soldier for the PRI." A court settlement in August of tax fraud charges brought by the Government against the owner of one of Mexico City's leading dailies also reflected the gradual dissolution of traditionally close interests between media owners and the Government.

However, the Government still has the power to grant or withdraw broadcast licenses. Media observers have privately alleged that the Government delays issuance of broadcast licenses as an implicit control over broadcasters. There have also been printed allegations of favoritism by the Government in granting broadcast licenses. None of those allegations has ever been proven. Media observers maintain, however, that the ability to grant or withdraw broadcast licenses leads to self-censorship in some broadcast media.

The most serious problem during the past year was the increasing number of credible reports of attacks on journalists. In May the CNDH revamped its procedures for monitoring reported attacks on

journalists. Rather than wait for formal complaints (which numbered 13 from May 1996 to May 1997), the CNDH began opening cases based on media reports, and it contacted the affected parties and others who may have information. This invigorated approach led to 80 new investigations between May and the end of the year. Most reports received by the CNDH continued to be from outside Mexico City, and most continued to describe violent acts or intimidation, rather than murder of a journalist.

Mexico City media reported that there were 10 homicides of journalists during the year in other parts of the country. Attorney General Madrazo publicly committed the PGR at the federal level to investigate all murders of journalists, which is significant because homicide investigations are normally the responsibility of state level officials. The most widely publicized death of a journalist in the conduct of his profession was the July murder of Benjamin Flores Gonzalez, owner and editor of the daily newspaper La Prensa, in San Luis Rio Colorado, Sonora. Unknown assailants shot Flores Gonzalez while he was returning to his office. Flores Gonzalez' paper had aggressively covered the drug trade in Sonora, including a story published in May, that reported the disappearance of a half ton of seized cocaine from Federal Judicial Police headquarters in San Luis Rio Colorado. The police arrested Rolando Arroyo Palacios, whom they said killed Flores Gonzales on the orders of a jailed drug trafficker. Police also arrested Luis Enrique Rincon Muro and Vidal Zamora Lara in the killing.

In November gunmen using automatic rifles opened fire on the vehicle of Jesus Blancornelas, founder and editor of Zeta, a Tijuana weekly. The assailants seriously wounded Blancornelas and killed his assistant; one of the attackers was killed. Press reports ascribed the attack to narcotics traffickers.

In June Leonicio Pintor Garcia, a correspondent of the daily El Sol in Chilpancingo, Guerrero, was found dead in or near the Ajolotero river. NGO reports stated that the body showed signs of torture. In late May, Jesus Bueno Leon, the editor of the weekly Siete Dias in Chilpancingo, Guerrero, was found shot in the head near the Chilpancingo-Tixtla highway. Bueno Leon reportedly was one of seven journalists at Siete Dias being sued for defamation by former Guerrero secretary of state Ruben Robles Catalan following the publication of reports that tied the state governor to a 1995 murder of a local lawyer by police.

There were no murders of journalists reported in Mexico City. There were, however, increasingly credible reports of harassment of journalists who work for national media. The Mexico City daily, Reforma, reported that two of its reporters were kidnaped and detained on separate occasions in August and September. The earlier kidnaping, by unidentified perpetrators, occurred while a reporter was investigating the disappearance of a police officer who reportedly had been in the pay of drug kingpin Amado Carrillo Fuentes. According to reports in Reforma, the second kidnaping was perpetrated by Federal Judicial Police, who questioned the reporter about his sources on several narcotics related stories for several hours before releasing him.

Reputable journalists with other national media institutions have remarked privately that they have been summoned to police agencies in Mexico City where they were similarly asked about stories they were pursuing, including their sources. The journalists did not allege detention or mistreatment, but understood an implicit, potential threat to their ability to report.

In response to the increased number of attacks on journalists and heightened attention by Mexican and international NGO's, on September 18, President Zedillo publicly condemned such attacks and instructed the Mexico City attorney general's office and the Mexico City police to investigate these acts.

The Constitution recognizes academic freedom in higher education, and the Government respects this provision in practice.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of assembly, and the Government respects this right in practice. The only requirement for holding demonstrations is that groups wishing to meet in public areas inform local police authorities; public demonstrations are held frequently.

The Constitution provides for the right to organize or affiliate with political parties, and the Government respects this right in practice. Opposition and independent associations functioned freely without government interference or restriction. The Federal Electoral Code recognizes national political associations. Such political associations can participate in elections through an agreement with one political party but are not allowed to use their names or symbols during the election campaigns. Private associations do not have legal status until they receive their official designation from the Federal Electoral Institute. In November 1996, the IFE recognized 24 citizen organizations.

c. Freedom of Religion

The Constitution provides for the right to practice the religion of one's choice, and the authorities generally respect this right in practice. However, local authorities sometimes infringed on this right (see Section 5). The law bars clergy from holding public office and from advocating partisan political positions.

The federal Office of Religious Affairs actively promotes religious tolerance and held symposiums in July 1996 in the states of Oaxaca and Chiapas emphasizing the constitutional right of freedom of religion.

On March 3, in Palenque, Chiapas, two Jesuit priests, Jeronimo Alberto Hernandez and Gonzalo Rosas Morales, were arbitrarily detained. According to witnesses, police in civilian clothes and judicial police, supported by local police, removed the two priests from their vehicle and transported them to Tuxtla Gutierrez. On the way to Tuxtla, the priests report having been beaten by the police. The police had no arrest order and did not inform the priests of the reason for their detention. The police informed the Fray Bartolome Human Rights Center, by telephone, that the priests were accused of participating in an ambush on March 2 in which two police officers were killed and five were wounded. A judge subsequently released the priests, for lack of evidence, on March 13.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the right of free movement, and the Government does not generally restrict movement of its citizens into, out of, or within the country.

The law provides protection for foreigners who face political persecution.

Illegal immigrants rarely file charges in cases of crimes committed against them. The authorities generally immediately deport illegal immigrants who come to their attention; therefore, a pending case brought by an illegal immigrant is subject to dismissal once the immigrant has been deported.

Until 1995 children who were in Mexico illegally did not have the right to matriculate in public schools. According to new Education Secretariat guidelines, any child may now be registered for public school with a Mexican or foreign birth certificate. Implementation of the new guidelines varies widely from state to state, however.

The Government cooperates with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. With the UNHCR, the Government assisted with the repatriation of Guatemalan refugees desiring to return home who had fled their country during the civil war in the 1980's and granted others wishing to stay in Mexico official immigrant residency status. The Government agrees, in practice, with the principle of first asylum and reviews each claim on a case-by-case basis with the assistance of the UNHCR.

The UNHCR worked with an intragovernmental commission called the Mexican Commission for Refugee Assistance in a program to repatriate Guatemalan refugees. Guatemalan refugees are mostly located in Chiapas (18,000), Campeche (10,000), and Quintana Roo (3,000). In 1996 3,973 Guatemalans were repatriated, and by July, an additional 1,639 had been repatriated. In addition, the Government offered the option to become legal residents to the refugees in Campeche and Quintana Roo; 85 percent accepted.

Between January and May Mexico expelled 18,984 Guatemalans, 12,934 Hondurans, 8,646 Salvadorans, and 547 Nicaraguans. Many of those expelled were en route to the northern border with the United States. There were no reports of forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right peacefully to change their government through periodic elections. The PRI dominates politics and has controlled the Government since the party was founded in 1929. It has won every presidential election since then and has maintained power, in part, by relying on public patronage, use of government and party organizational resources, and, in the past, electoral fraud. However, the Government no longer restricts the functioning of political opponents. Electoral reforms approved in 1996 and implemented in 1997 marked a transition from the traditional political system. While the PRI continues to be the dominant party, political change is altering the nation's politics, and opposition parties are gaining strength on both the national and local levels.

On July 6, elections were held for all 500 seats in the lower house of Congress, one-quarter of the Senate, 6 state governors (Campeche, Colima, Queretaro, Sonora, San Luis Potosi, and Nuevo Leon), and over 1,000 state and local office holders in 7 states and Mexico City. The congressional elections were a historic turning point. For the first time since the party's founding, the PRI lost its absolute majority in the lower house of Congress. In addition, for the first time since the 1920's, the people of Mexico City directly elected the mayor. PRD candidate Cuauhtemoc Cardenas won this race by a clear margin. There were post-electoral disputes in a few states including Colima and Campeche, and there was small-scale violence in Chiapas. (Ballots were burned in about 90 polling stations, out of over 1,100 in the state and over 100,000 nationwide.) The elections were seen by Mexican and international observers as largely free and fair and as a significant advance in the democratization process.

As a result of the package of electoral reforms approved by the Congress and signed by President Zedillo in 1996, the Federal Electoral Institute (IFE), operating with full autonomy, organized the federal elections for the Congress and, this year only, for the mayor of Mexico City. (In subsequent elections, Mexico City is to have its own electoral commission.) The IFE implemented extensive constitutional and legislative reforms passed in 1996 to help prevent electoral fraud and to "level the playing field" for the political parties by regulating campaign finance, advertising, and other measures. The IFE also provided support to state electoral institutes in running state and local elections and was instrumental in overhauling electoral district boundaries to reflect demographic shifts.

Although there is no systematic exclusion of women and indigenous persons, they are underrepresented in politics. Women, however, hold numerous congressional seats and continue to increase their representation in political offices. At the beginning of his administration, President Zedillo appointed three women to the cabinet: the Comptroller General, the Secretary of Tourism, and the Secretary of the Environment, Natural Resources, and Fisheries. In addition, after the July elections, there were 87 women in the 500-member Chamber of Deputies and 19 in the 128-member Senate.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of human rights groups operate largely without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and responsive to NGO views, and the Congress has established a citizen participation committee to act as a liaison with NGO's. In July 1996, the Inter-American Commission on Human Rights visited Mexico at the invitation of President Zedillo and met with over a hundred human rights groups. In August the United Nations Special Rapporteur on Torture visited and met with government officials and members of NGO's. In September the secretary general of Amnesty International visited Mexico and met with high ranking members of the Government including Attorney General Madrazo, as well as with members of prominent human rights NGO's.

However, many serious problems remain. For example, leaders and members of numerous human rights NGO's received death threats for criticizing the human rights situation in the country. These included members of the Miguel Agustin pro Juarez Center for Human Rights (PRODH) in Mexico City; its director, father David Fernandez Davalos; and Jose Lavanderos Ynez, Pilar Noriega, Digna Ochoa, Victor Brenes, and Enrique Flota, PRODH lawyers representing alleged members of the EZLN. Death threats were also received by Araceli Munoz, a member of the Christian Action for the Abolition of Torture in Mexico City, and other civil rights activists and politicians. For example, in July Leticia Moctezuma Vargas received threats because of her involvement in Tepoztlan. Graco Ramirez Abreu, PRD state congressman in Morelos, also received death threats in October for campaigning against human rights violations by the police.

The CNDH has established a program to assist threatened activists in filing a complaint and obtaining protection. After filing an official complaint, the Government is in a position to offer protective services through the Mexico City attorney general's office. For example, beginning in October 1996, the judicial police have monitored the offices of the Miguel Augustin pro Juarez Center for Human Rights in 24-hour shifts. In addition, at the group's request the Mexico City Attorney General's office installed a closed circuit fixed camera and monitor, and a video recorder to tape the signal and two external views. The Attorney General's office also established a government group to follow up on the investigation, but it had not yielded conclusive results by year's end as to who was behind these threats. Moreover, NGO's are concerned about the intrusive nature of the police protection.

To address human rights abuses, the Government established the CNDH in 1990. Between May 1996 and May 1997, the CNDH received a total of 8,509 new cases and continued to process the 1,323 cases that carried over from the previous year. By May the CNDH had concluded 8,456 of the total of 9,832 cases; 1,376 were in various stages of processing.

For the period from May 1996 to May 1997, the CNDH made 126 recommendations to government authorities. Of these, the authorities showed proof of having fully complied with 27 and partially complied with 92. The authorities accepted six recommendations without showing proof of compliance and six others pending presentation of proof of compliance. An additional 32 cases were pending. During the same period, the CNDH's efforts resulted in the sanctioning of 123 public servants, of which

25 were federal employees and 98 were state employees.

Some NGO's note that the CNDH lacks both autonomy and enforcement authority. Additionally, some contend that it has become too large and bureaucratic, and that the state commissions are ineffectual. In part to address this concern, and also to improve its ability to comply with its international human rights obligations, the Government installed an interagency commission on human rights on November 6. The new commission is made up of the Secretaries of Foreign Relations, Defense, Navy, Interior, the Attorney General's office, and the CNDH. The commission is to develop a government policy on human rights to establish uniform procedures for interaction between government agencies and human rights organizations.

In March 1995, the Federal District Attorney General's office announced the opening of a new subsection for human rights to address abuses in Mexico City, by far the most populous jurisdiction. The office handled an average of two complaints per day against Federal District police officers, as well as other cases. In December 1996, the PGR also opened an office to strengthen communication with NGO's.

Then-Defense Minister General Antonio Riviello imprisoned General Jose Francisco Gallardo Rodriguez in November 1993 on a range of charges, including embezzlement and dishonoring the military. Gallardo claims that the embezzlement charges, which date back 7 years, had previously been abandoned for lack of evidence. He maintains that military authorities are persecuting him because of an academic dissertation calling for the establishment of a military human rights ombudsman's office. The army continues to hold Gallardo but has reduced the previous inordinately high level of security of his incarceration. The IACHR considered the Gallardo case in October 1996 and called for his immediate release and for the Government to indemnify him for damages suffered as a result of his imprisonment. However, he remains in prison. In June his son, Marco Vinicio Gallardo Enriquez, who campaigned for his father's release, survived an attack by unidentified individuals in Mexico City.

On April 16, two foreign representatives of the International Federation of Human Rights (FIDH) arrived at an Acapulco prison to interview people accused of having links with the EPR. After examining their documents, the prison director discovered the two were in the country on the wrong type of visas, denied them access to the prison, and notified immigration authorities. At 1:00 a.m. on April 17, immigration authorities went to the hotel where the FIDH representatives were staying and asked to review their documents. The immigration officers confirmed that the FIDH investigators did not have the type of visa required to conduct such interviews; rather, they had been issued tourist visas by Mexican consular officers. Although the CNDH requested that the representatives be allowed to remain in country, and the request was agreed to by immigration authorities, the two representatives were not officially granted this permission prior to leaving Mexico on April 21. In May the CNDH recommended that an investigation be made into the behavior of the immigration authorities. As a result of this recommendation, the authorities disciplined a number of immigration officials and changed policies to avoid similar situations in the future.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution states that men and women are equal before the law. It also provides that education should sustain the ideals of "fraternity and equal rights of all mankind, avoiding privileges of race, sects, groups, sexes, or individuals." These provisions are not effectively enforced.

Amnesty International cites Mexico as one of the countries in which homosexual men and women are most likely to be victims of abuse and violence. A number of homosexuals and male prostitutes have

been killed in recent years. There was no progress in the investigation of the killings of at least 12 homosexuals and 9 male prostitutes in Tuxtla Gutierrez between 1991 and 1993. An independent prosecutor took over the investigation of the Tuxtla Gutierrez murders in April 1994 but had made no progress in solving them by the end of 1997.

Women

The most pervasive violations of women's rights involve domestic and sexual violence, which is believed to be widespread and vastly underreported. Women are reluctant to report abuse or file charges, and, even when notified, the police are reluctant to intervene in what society considers to be a domestic matter. The municipality of Chimalhuacan, Mexico state, where the average time for police action on rape cases is 2 months, is a typical example of the difficulty that rape victims experience. This is attributable to police inexperience in handling these cases, lack of investigative techniques, and unwillingness to get involved in what are often considered domestic affairs.

In December Congress passed a legislative reform initiative on intrafamily violence proposed by the President. The new law has three main objectives: to discourage and punish intrafamily violence, establish protective measures for victims, and educate the public. The legislation expanded the crime of rape to include spousal rape, involving married or common law couples.

Under certain circumstances limited to statutory rape of a minor between the ages 12 and 18, the Criminal Code provides that a judge may dismiss the charges if the persons involved voluntarily marry. In practice, this provision is rarely invoked.

In Mexico City, during the first 8 months of the year, the Center for Family Violence (CAVI) received 8,760 cases and assisted 11,732 people. The CAVI provided counseling to 2,684 crime victims. During 1996, the Special Agency for Sexual Crimes received 5,643 complaints. Rape was the most reported sexual crime with 1,693 reported cases, 48.2 percent of the total; followed by sexual abuse, 1,053 cases; and attempted rape, 179 cases. The Center for Support for Victims of Sexual Crimes provided counseling to 10,822 people in 1996, and in 1,611 cases it provided legal support. The Mexico City Attorney General's office provided legal assistance to crime victims through a special unit (ADEVI) which was created in 1994. Between January and August, the ADEVI assisted 7,655 people and sent 1,592 cases to the appropriate authorities. The ADEVI also helped to obtain \$210,583 for compensation to some of the victims.

Although the Constitution provides for equality between the sexes, neither the authorities nor society in general respect this in practice. The legal treatment of women's rights is uneven. Women have the right to own property in their own names and to file for separation and divorce. However, in some states a woman may not bring suit to establish paternity and thereby obtain child support, unless the child was a product of rape or cohabitation; the child resides with the father; or there is written proof of paternity.

The Constitution and labor law provide that women shall have the same rights and obligations as men, and "equal pay shall be given for equal work performed in equal jobs, hours of work and conditions of efficiency." However, women are generally paid less and are concentrated in lower paying occupations. Labor law includes extensive maternity protection, including 6 weeks off before and 6 weeks off after childbirth, time off for breast feeding in adequate and hygienic surroundings provided by the employer, and, during pregnancy, full pay and no dismissals, heavy or dangerous work or exposure to toxic substances. There are reports that, in order to avoid these expensive requirements, some employers deliberately violate these provisions by requiring pregnancy tests in preemployment physicals and by exposing pregnant women to difficult or hazardous conditions to make them quit; this reportedly occurs

particularly in the low-wage, low-skill, high-turnover end of the in-bond export processing (maquila) industry.

These reports claim that state and (for health and safety) federal labor authorities are unable or unwilling to enforce those provisions. Human Rights Watch/Americas, joined by the International Labor Rights Fund, and the (Mexican) National Association of Democratic Lawyers, followed up its August 1996 report on these problems by filing on May 15 a submission with the U.S. National Administrative Office (NAO), under provisions of the NAFTA labor side agreement. The U.S. NAO accepted the submission for review on July 14. The Government criticized the methodology of the Human Rights Watch/Americas study, stressing that only 50 workers in 43 plants (8 of which had been closed) were interviewed when more than 500,000 women work in more than 3,000 maquiladoras. Since publication of the report, some firms have discontinued the practice of preemployment pregnancy testing and others have initiated a review of procedures related to physical examinations for current and prospective employees.

In order to protect women's labor rights, the Ministry of Labor made 23,138 safety and hygiene inspections in private factories and public institutions during 1996. However, while the Government increased the number of federal inspectors during the year and negotiated agreements with an increasing number of state governments to expand and better coordinate labor inspections, the number of maquila plants far outstrips what state and federal inspectors can handle.

In 1995 the CNDH found that the largest number of complaints against health care institutions involved negligence or abuse during childbirth by medical personnel and charges of forced sterilization. It said that the number of such complaints had grown, in large part due to women's increased awareness of their rights. The Constitution states that all persons have the right to make free, responsible, and informed decisions on the number of children they choose to have. The 1984 General Health Law provides for criminal action against those who pressure a woman to undergo sterilization procedures or perform such procedures without the woman's consent. In a number of cases, charges have been brought against doctors for sterilizing a woman or inserting an IUD without her consent. The scope of this problem is difficult to quantify, although a number of NGO's and government agencies follow the issue, because women may not realize that these procedures have been performed on them or may be reluctant to come forward and file a complaint. The CNDH has recommended that medical administrators train their staffs to be more aware when dealing with such patients. The Government has instituted a number of mechanisms, including better training and medical review boards, to address the problem.

In February the Government initiated an antipoverty program called PASE in five of nine targeted microregions, designed to try to break the cycle of poverty by tying together health, education, and nutrition benefits, with special emphasis on women and girls. In August the Government renamed the program Progresá and planned to have it active in all 9 microregions in 13 states, in order to reach as many as 500,000 of the country's poorest families by the end of the year.

The Government created the National Women's Program to address the needs of women and children. According to its 1997 report, 3,876 women received literacy training; 3,540 maternity clinics are now open in 17 states serving extremely poor areas; and 13,227 family planning classes were given.

Children

Children under the age of 18 make up over 40 percent of the population. While the Government is committed to children's health and education, it has failed to allocate sufficient resources to fulfill that commitment. Nine years of education are compulsory. The United Nations Children's Fund (UNICEF)

classifies Mexico as "lacking adequate strategies" to combat malnutrition among children, and reports that 30,000 children die each year of causes related to malnutrition. According to UNICEF, the department of the Federal District, and the National System for the Integral Development of the Family, in 1995, more than 13,000 children lived on the streets of Mexico City, many the victims of family violence. This was a 20 percent increase from 1992. The children themselves often become involved with alcohol, drugs, prostitution, and petty thievery.

While the Government and NGO's conduct a number of programs for street children, corrupt police exacerbate the problem by pressuring children to commit petty crimes and extorting profits from them. The CNDH has a program for the protection of children's rights, which includes educating children on their rights and reviewing legislation to ensure compliance with relevant international conventions.

As an adjunct to the July 6 elections, IFE and UNICEF organized in the first children's elections ever held in the country. A total of 3.7 million children between the ages of 6 and 12 participate. Children voted on which of the nine basic rights ensured by the U.N. Convention on the Rights of the Child they deem a priority.

While there is no societal pattern of abuse against children, children's advocates reported many individual cases.

People With Disabilities

The law requires access for disabled persons to public facilities in Mexico City but not elsewhere in the country. In practice, however, most public buildings and facilities do not comply with the law. Recognizing that disabled persons often suffer employment discrimination, the Federal District instituted a tax rebate program in 1996 for businesses employing disabled persons. For the first time, in 1996 the public education sub-secretariat for the Federal District mandated that all public and private schools grant access to physically (although not mentally) disabled children and that schools make the necessary arrangements (e.g., installation of ramps) to facilitate access.

In late 1996, the CNDH published a pamphlet called "principal rights of people with disabilities" and a Braille edition of a handbook called "first aid in human rights," which was distributed to organizations that work with the blind.

Since 1995, the CNDH has made 11 visits to five institutions that care for disabled people and has issued two recommendations. The CNDH has also visited mentally ill prisoners in 92 penitentiaries located in 17 states and has issued 13 recommendations in response to their findings.

Indigenous People

The indigenous population has long been the victim of discriminatory treatment. The 1994 Chiapas uprising focused unprecedented attention on the demands of that state's indigenous persons for increased economic and social rights. Among its basic demands, the EZLN called on the Government to enact measures to protect indigenous cultures, provide more opportunity for employment, and invest in schools, clinics, and infrastructure projects. The Government, through the INI and the CNDH, operates programs to educate indigenous groups (many members of which do not speak Spanish) about their political and human rights, and it generally professes respect for their desire to retain elements of their traditional culture. The CNDH organized training courses on human rights for indigenous communities in Chiapas, Hidalgo, Mexico, Michoacan, Oaxaca, Chiapas and Nayarit. The courses were taught in the communities' indigenous languages.

More than 130 NGO's are dedicated to the promotion and protection of indigenous rights. Indigenous people do not live on independently governed reservations, although some indigenous communities exercise considerable local control over economic and social issues. These communities apply traditional law to resolve a variety of disputes, including allegations of crimes. However, these groups remain largely outside the country's political and economic mainstream, a result of long-standing patterns of economic and social development, and in many cases their ability to participate in decisions affecting their lands, cultural traditions, and allocation of natural resources is negligible.

Constitutional changes in 1996 expanded the rights of indigenous peoples to elect representatives to national office according to traditional "usages and customs," rather than standard electoral law.

The 1992 reforms in agrarian law were expected to promote economic development in the countryside, but indigenous groups generally perceived the reforms as intended to break up indigenous communal landholdings and prevent the groups from obtaining title to new lands. A 1991 amendment to the federal law requires that an interpreter be present at every stage of criminal proceedings against indigenous persons and stipulates that "their customs and traditions shall be taken into account." However, the courts continue to sentence indigenous people without the benefit of interpreters. The CNDH had reviewed the cases of 7,823 jailed indigenous persons and sought the release of 1,887. Of those, 1,069 have been released since June 1994, largely through CNDH efforts.

The General Education Act states that "teaching shall be promoted in the national language (i.e., Spanish) without prejudice to the protection and promotion of indigenous languages." However, many indigenous persons speak only their native languages. Non-Spanish speakers are frequently taken advantage of in commercial transactions involving bilingual middlemen, and have great difficulty finding employment in Spanish-speaking areas. Over 50 indigenous languages are spoken.

Although the law provides some protection for the indigenous, and the Government provides indigenous communities support through social and economic assistance programs, legal provisions and social welfare programs are not sufficient to meet the needs of all indigenous persons.

Religious Minorities

In the highlands of Chiapas and other indigenous areas, traditional leaders sometimes acquiesced in, or actually ordered, the expulsions of Protestants belonging primarily to evangelical groups. In many cases the expulsions involved the burning of homes and crops, beatings, and, occasionally, killings.

Progovernment supporters have accused the Catholic Church in the Chiapas diocese of supporting the EZLN. On November 4, a pickup truck carrying supporters of bishop Samuel Ruiz on a pastoral visit in northern Chiapas came under fire from unknown persons. Three people were wounded but no one was killed. The local authorities commenced an investigation, which remained open at year's end. On November 6, the bishop's sister received an acquaintance at the church office in San Cristobal de Las Casas. This acquaintance attacked her with a hammer. The assailant was immediately arrested and subsequently diagnosed as mentally ill. He remained in prison pending the conclusion of judicial proceedings against him.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Federal Labor Law (LFT) provide workers with the right to form and join trade

unions of their choice. About 30 percent of the total work force is unionized, mostly in the formal sector, where about one-half the labor force is employed. This implies a formal sector unionization rate nearly twice that high.

No prior approval is needed to form unions, but they must register with the Federal Labor Secretariat (STPS) or state labor boards (JLCA) to obtain legal status in order to function. Registration are not onerous. There are credible allegations, however, that the STPS or JLCA occasionally withhold or delay registration of unions hostile to government policies, employers, or established unions or register extortionists or labor racketeers falsely claiming to represent workers. To remedy this latter problem, STPS officials require evidence that unions are genuine and representative before registering them.

Like the Federal Labor Board (JFCA), the JLCA are tripartite. Although trade union presence on the boards is a generally positive feature, it can lead to unfair partiality in representation disputes; the member from an established union may work to dissuade a JLCA from recognizing a rival organization. The matter of trade union registration was the subject of follow-up activities in 1996 and 1997, pursuant to a 1995 agreement reached in ministerial consultations under the North American Agreement on Labor Cooperation (NAALC), the side agreement on labor to the North American Free Trade Agreement (NAFTA).

Unions form federations and confederations freely without government approval. Most unions belong to such bodies. They too must register to have legal status. The largest trade union central is the Confederation of Mexican Workers (CTM), traditionally a sector of the ruling PRI, but affiliation is individual. The relationship between labor organizations and political parties was a topic of much discussion before and after the July 6 congressional elections. This issue was to be discussed within the PRI before the end of the year, but such a debate did not occur. The Federal Employee Union Federation (FSTSE), the Revolutionary Worker and Peasant Confederation (CROC), and most of the separate national unions, smaller confederations, and federations in the Labor Congress (CT) are also allied with the PRI, but a number of them also reviewed the matter of party affiliation. However, several are not, including the large teachers' union, which severed its PRI ties several years ago, freeing its minority factions to cooperate openly with other parties, particularly the PRD. Rivalries within and between PRI-allied centrals are strong. There also are a few small labor federations and independent unions outside the CT that are not allied to the PRI. One is the small, left-of-center Authentic Labor Federation (FAT). Most FAT members sympathize with the PRD, but the FAT is independent and not formally tied to the PRD. In November 160 labor organizations representing workers in the private and public sectors, led by the telephone workers and social security workers unions, formed a labor central (National Union of Workers--UNT) in competition with the officially recognized CT.

PRI-affiliated union officers traditionally have helped select, run as, and campaign for, PRI candidates in federal and state elections and support PRI government policies at crucial moments. This gave unions considerable influence on government policies but limited their freedom of action to defend member interests in other ways, particularly when this might harm the Government or PRI. The CT, especially the CTM, is well represented in the PRI senatorial and congressional delegations, although their numbers diminished somewhat after the July 6 elections.

The International Labor Organization (ILO) Conference Committee of Experts (COE) has found that certain restrictions in federal employee labor law, adopted at FSTSE request, violate ILO Convention 87 on freedom of association, which Mexico has ratified. These provisions allow only one union per jurisdiction, forbid union members to quit the union, and prohibit reelection of union officials. Again in 1997, the COE and the ILO Committee on Application of Standards (CAS) reiterated their criticism and asked the Government to amend these provisions. A 1996 Supreme Court decision invalidated similar

restrictions in the laws of two states, but the decision applied only in the specific instances challenged.

There were developments regarding union representation in the new environment, natural resources, and fisheries secretariat, an issue raised again in the CAS debate and in a submission under the NAALC (a public hearing was held on December 3, 1996, bilateral consultations are underway on certain issues raised, and a related trilateral seminar was held on December 4, 1997, to discuss international legal questions raised as a result of the submission). This secretariat, formed late in 1994, merged the small former fisheries secretariat with much larger sections from the agricultural and social development secretariats. In early 1995, the fisheries secretariat union applied to the Federal Employee Labor Tribunal (TFCA) to change its name to union of the new secretariat. The TFCA denied the request. The TFCA is bipartite, with FSTSE as well as government members. Following the TFCA decision, the FSTSE, applying its statutes, convoked a convention, with delegates elected by secret ballot, to form a new union and elect its officers. The TFCA recognized the new union and withdrew recognition from the old. The new union thus benefited from the contractual relationship giving union delegates time off with pay for union work. The dissolved union appealed to a court, which upheld the appeal and returned the matter to the TFCA. The TFCA restored the fisheries union's registration and revoked that of the new union (again upholding the legal provision allowing registration of only one union per entity, violating ILO Convention 87). The unregistered union continued benefiting from time off and dues. The TFCA held a representation election ("recount"--see Section 6.b.) for employees to choose by secret ballot between the two unions. The fisheries secretariat union lost by a wide margin but challenged the validity of the election, charging irregularities, however, the TFCA confirmed the election results. Subsequent court rulings in 1997 recognized the fisheries secretariat union's right to function as a union in the new secretariat but confirmed collective bargaining rights for the union that had won the election.

In April 1996, the Federal District municipal government reached agreement with the jailed leaders of the Sutura-100 union of the bankrupt former public municipal bus company Ruta-100. The Government agreed to concede and allow the union to operate two of the new private bus companies to replace Ruta-100. The Government also agreed to appeal to the courts to release the leaders from jail while Sutura reached a settlement with the former members who had sued it to recover money from the union pension and other funds. The union leaders were released on bail in July 1996, and the first of the two union enterprises began operating at the end of the following month. In August the secretary general and legal advisor of Sutura presented a complaint to the Attorney General alleging that federal police had blocked access to buses belonging to the Siglo Nuevo bus company (one of the two private companies that replaced Ruta-100), resulting in lost revenue amounting to about \$15,000 (120,000 new pesos). Despite the resolution of this issue, the companies continued to experience financial difficulties.

The Constitution and the LFT provide for the right to strike. The law requires 6 to 10 days' advance strike notice, followed by brief government mediation. If federal or state authorities rule a strike "nonexistent" or "illicit," employees must remain at work, return to work within 24 hours, or face dismissal. If they rule the strike legal, the company or unit must shut down totally, management officials may not enter the premises until the strike is over, and the company may not hire striker replacements. Provisions for maintaining essential services are not onerous. The law makes filing a strike notice an effective, commonly used threat, but few strikes actually occur, usually to protect a failing company's assets from creditors and courts until an agreement is reached on severance pay. On the other hand, informal stoppages are a fairly common tactic, but are uncounted in statistics and seldom last long enough to be recognized or ruled out of order. The law permits public sector strikes, but formal public sector strikes are rare. Informal ones are more frequent. Informal stoppages by dissident factions of the national teachers' union shut down many schools in several states and the Federal District in late May and June, and demonstrations disrupted traffic in the capital (but not to the extent that they had in 1996), until settlements were reached that included pay for strike days and unpaid overtime to make up lost work and complete the school year.

During the first 11 months of 1997, the JFCA reported that 6,200 strike notices were filed and 38 legal strikes occurred in federal jurisdiction, 1,490 notices and 13 strikes fewer than occurred in the same period in 1996. There were no reports that federal or state labor authorities stretched legal requirements to rule strikes nonexistent or illicit, or used delays to prevent damaging strikes and force settlements.

The Constitution and the LFT protect labor organizations from government interference in their internal affairs, including strike decisions. This can protect undemocratic or corrupt union leaders. The law permits closed shop and exclusion clauses, allowing union leaders to vet and veto new hires and force dismissal of anyone the union expels. Such clauses are common in collective bargaining agreements.

Employer organizations abandoned efforts to push for labor law reform. In effect, government, employers, and unions had negotiated reforms through tripartite national agreements and collective bargaining at the enterprise level, and through cooperation in programs to increase, and compensate for, productivity. With government blessing, after nearly a year of negotiation, national labor and employer organizations agreed in August 1996 on a joint effort to build a new labor culture of mutual respect and cooperation to boost productivity, wages, and competitiveness. The three parties met regularly throughout 1997 to discuss ways and means for carrying out the objectives of the agreement.

Unions are free to affiliate with, and are often active in, trade union internationals.

b. The Right to Organize and Bargain Collectively

The Constitution and the LFT strongly uphold the right to organize and bargain collectively. Interest by a few employees, or a union strike notice, compels an employer to recognize a union and negotiate, or ask the federal or state labor board to hold a union recognition election. LFT prounion provisions led some employers to seek out or create independent "white" or company unions as an alternative to mainstream national or local unions. Representation elections are traditionally open, not secret, although this seems to be changing. Traditionally, management and union officials are present with the presiding labor board official when workers openly declare their votes, one by one. Such open recounts are prevailing practice but are not required by law or regulation. Secret ballots are held when all parties agree.

As the economic crisis deepened in 1995, the Government, at union insistence, agreed to end the system of annual national pacts negotiated by the Government and major trade union, employer, and rural organizations, which had voluntarily limited free collective bargaining for the past decade. Wage restraints no longer exist, except for those caused by the economic recession and difficult situation of most employers. The Government and major employer and union organizations met occasionally to reaffirm the 1996 "Alliance for Economic Growth" and agreed on new tax breaks or minimum wage increases, but the Government kept its commitment to free collective bargaining without guidelines or government interference. Wages in most union contracts appeared to keep pace with or ahead of inflation, but most workers had not yet regained buying power lost over the past decade. The alliance, however, was not renewed in October, as the negotiation shifted to the national Congress, becoming part of the debate on the budget. In that context, the opposition PAN introduced a proposal in the Chamber Deputies that would modify the LFT to make changes in the composition and role of the National Minimum Wage Commission.

Mexico's record in internal union democracy and transparency is mixed. Some unions are democratic, but corruption or authoritarian and strong-arm tactics are common in others. A protest of such practices, which was initiated in 1996, involved factory committee leaders trying to improve conditions at a U.S.-owned maquila factory in Sonora. The committee leaders were fired with the complicity of an allegedly-

CTM "leader" who had a protection contract. The telephone union, representing the fired former factory committee leaders, the Federation of Goods and Services, and the Communications Workers of America filed a submission for review by the U.S. National Administrative Office, under provisions of the NAALC. The submission was accepted by the U.S. NAO for review in late fall of 1996 and a public hearing was set for April. The hearing did not take place because an interim agreement was reached between the Government and the complainants. Hearings before a state labor board were to take place in Hermosillo, Sonora in August, but were postponed. There were indications that the complainants might seek to reopen the case.

A similar case developed in Tijuana, Baja California, resulting in a disputed election on October 6 for the right to the collective bargaining contract for workers at a Korean-owned maquiladora. The contest, between a CROC-affiliated union and one associated with the FAT, resulted in a submission to the U.S. NAO, which was accepted for review on November 17. Subsequently, talks between the company and the workers, mediated by a state government official, stalled in mid-December over a union's insistence and the state government's refusal to sign as guarantor of the agreement to recognize an independent union to represent workers at the plant. The U.S. NAO scheduled public hearings for February 18, 1998.

On December 16, 9 unions and 24 human rights NGO's jointly filed a submission with the U.S. NAO in another case involving the freedom of association linked to the right to organize unions. This case concerned allegations of strong arm tactics by a union affiliated with the CTM to intimidate workers so that they would not vote in favor of a rival union to represent workers at a plant in La Paz, state of Mexico, which manufactures brake systems for motor vehicles.

The public sector is almost totally organized. Industrial areas are heavily organized. Even states with little industry have transport and public employee unions, and rural peasant organizations are omnipresent. The law protects workers from anti-union discrimination, but enforcement is uneven in the few states with low unionization.

Unionization and wage levels in the in-bond export sector vary by area. Wages have been lower in this sector than in most of industry, especially in low technology facilities and in the west, but the gap has narrowed and may now be minimal. Some observers allege poor working conditions, inadequate wages, and employer and government efforts to discourage unionization in this sector. There is no evidence that the federal Government opposes unionization of the plants, which tend to be under state jurisdiction, but some state and local governments in the west are said to help some employers discourage unions.

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced labor, which includes forced and bonded labor by children. There have been no credible reports of forced labor for many years, with the exception of abuses of refugees and illegal immigrants in Chiapas (see Section 2.d.).

d. Status of Child Labor Practices and Minimum Age for Employment

The law bans child labor, including forced or bonded labor (see Section 6.c.). The law sets the minimum legal work age at 14 years. The activities of those 14 and 15 years of age are so restricted as to be uneconomic (no night or hazardous work and limited hours). The ILO reported that 18 percent of children 12 to 14 years of age work, often for parents or relatives. Enforcement is reasonably good at large and medium-sized companies, especially in export industries and those under federal jurisdiction. Enforcement is inadequate at the many small companies and in agriculture. It is nearly absent in the informal sector, despite government efforts. Most child labor is in the informal sector (including myriad

underage street vendors), in family-owned workshops, or in agriculture and rural areas. The CTM agricultural union's success years earlier in obtaining free transport for migrant seasonal workers from southern states to fields in the north inadvertently led to a significant increase in child labor. The union and employers were unable to convince indigenous farm workers to leave their families at home, and many have settled near worksites in the north. The union has had some limited success in negotiating with employers to finance bilingual education near worksites and in obtaining social security child care centers, but it has had difficulty in persuading member families not to bring their children into the fields.

The Federal Government increased the number of obligatory school years from 6 to 9 in 1992 and made parents legally liable for their children's attendance, as part of a reform to upgrade labor force skills and long-term efforts to continue increasing educational opportunities for and participation by youth.

e. Acceptable Conditions of Work

The Constitution and the LFT provide for a daily minimum wage. The tripartite National Minimum Wage Commission (government, labor, and employers) usually sets minimum wage rates each December, effective January 1, for the whole year, but any of the three parties can ask that the board reconvene during the year to consider a changed situation. In December 1996, the Wage Commission adopted a 17 percent increase, based in part on the Government's projection of a 15 percent annual inflation rate for 1997. Organized labor's unhappiness with the 17- percent increase (some labor organizations had demanded an increase of at least 25 percent) produced some suggestions that the official increase be challenged in court because it did not meet the constitutional requirement to be adequate to cover basic costs of living, including recreation. Labor leaders several times publicly called for an emergency increase in the minimum wage before the end of the year, but the Government and employers would not agree to such increases. However, during the course of the year, wage and benefit adjustments to collective bargaining contracts averaged between 20 and 23 percent.

In Mexico City and nearby industrial areas, Acapulco, southeast Veracruz state's refining and petrochemical zone, and most border areas, the minimum daily wage was \$3.39 (26.44 new pesos). However, employers actually paid minimum wage earners \$3.86 (30.14 new pesos) due to a supplemental 14 percent fiscal subsidy (negative income tax or tax credit, which the Government refunds to employers). These income supplements to the minimum wage, agreed in annual tripartite pacts, are for all incomes less than four times the minimum wage, decreasing as wages and benefits rise. In Guadalajara, Monterrey, and other advanced industrialized areas, the minimum daily wage (before the fiscal subsidy) was \$3.14 (24.51 new pesos). In other areas, it was \$2.87 (22.48 new pesos). There are higher minimums for some occupations, such as building trades.

Few workers (only 14 to 18 percent of the workers covered by social security) earn only the minimum wage. Industrial workers average three to four times the minimum wage, earning more at bigger, more advanced and prosperous enterprises.

The law and contract arrangements provide workers with extensive additional benefits. Legally required benefits include free social security medical treatment and pensions, individual worker housing and retirement accounts, substantial Christmas bonuses, paid vacations, and profit-sharing. Employer costs for these benefits add from about 27 percent of payroll at marginal enterprises to over 100 percent at major firms with good union contracts. In addition, employers frequently subsidize the cost of meals, transportation, and day care for children, and pay bonuses for punctuality and productivity.

The LFT sets 48 hours as the legal workweek, although with pay for 56 hours. Workers asked to exceed 3 hours of overtime per day or required to work overtime on 3 consecutive days must be paid triple the

normal wage. For most industrial workers, especially under union contract, the true workweek is 42 hours, although they are paid for 7 full 8-hour days. This is why unions jealously defend the legal ban on hourly wages.

The law requires employers to observe occupational safety and health regulations issued jointly by and the Social Security Institute (IMSS), and to pay contributions that vary according to their workplace safety and health experience ratings. LFT-mandated joint management and labor committees set standards and are responsible for workplace enforcement in plants and offices. These meet at least monthly to consider workplace needs and file copies of their minutes with federal labor inspectors, who assumed jurisdiction for all such inspections in 1987, supplanting state inspectors and considerably strengthening inspection. The inspectors schedule visits largely in response to these workplace committees.

Individual employees or unions may also complain directly to inspectors or safety and health officials. Workers may remove themselves from hazardous situations without jeopardizing their employment. Plaintiffs may bring complaints before the federal labor board at no cost to themselves. The Federal Government established 11 special labor arbitration and conciliation boards (in Queretaro, Pachuca, Ciudad del Carmen, Zacatecas, Orizaba, Ciudad Juarez, Cancun, Colima, La Paz, Reynosa, and Tijuana) to make it more convenient for workers to file complaints and bring other actions before the labor court system.

STPS and IMSS officials report that compliance is reasonably good at most large companies. Federal inspectors are stretched too thin for effective enforcement if companies do not comply voluntarily and fulfill their legal obligation to train workers in occupational health and safety matters, although the number of inspectors was increased in 1995 and 1997. There are special problems in construction, where unskilled, untrained, poorly educated, transient labor is common, especially at many small sites and companies. Many unions, particularly in construction, are not organized effectively to provide training, to encourage members to work safely and healthily, to participate in the joint committees, or to insist on their rights.

The STSP completed work in 1996 on a comprehensive reform of regulations and procedures (resulting from extensive consultations through NAFTA cooperative mechanisms) concerning workplace health and safety. The reformed federal regulations on safety, hygiene, and environment in the workplace went into effect in April. The reformed regulations reduced to 168 articles in a single set of regulations what previously had been 1,353 articles in as many as six separate sets of regulations, some dating from as far back as 1934.

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