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## U.S. Department of State

### Mexico Country Report on Human Rights Practices for 1998

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#### MEXICO

Mexico is a federal republic composed of 31 states and a Federal District, with an elected President and a bicameral legislature. President Ernesto Zedillo was elected in 1994 to a single 6-year term. The Institutional Revolutionary Party (PRI), the oldest and largest political party, enjoys significant advantages in patronage, incumbency, and fund-raising. However, in largely free and fair elections in 1997, the PRI lost its absolute majority in the lower house for the first time, and the opposition Democratic Revolutionary Party (PRD) and National Action Party (PAN) made strong gains. State election commissions have recast state and local elections into free and generally honest contests. The opposition, the PRI, and the Government demonstrated an ability to work together in the Congress on vital national issues. Politically motivated violence plagued several southern states, especially Chiapas, Guerrero, and Oaxaca. Peace talks between the Government and the Zapatista National Liberation Army (EZLN) remained stalemated. The EZLN and the Congressional Commission on Peace and Harmony in Chiapas (COCOPA) met in November and agreed to maintain contact. The judiciary is generally independent; however, on occasion it has been influenced by the executive branch.

The military shares responsibility for internal security with the police forces, which include the federal and state judicial police, the federal highway police, the municipal police, and various police auxiliary forces. Elected civilian officials control the military and police. The military withdrew from Federal District police responsibilities in December 1997. Corruption is widespread within police ranks and a growing problem for the military. Military personnel and police officers continued to commit serious human rights abuses.

The Government continued to deregulate and open the market-based, mixed economy. In 1997 social and community services contributed 26.2 percent to the gross domestic product (GDP), manufacturing 20 percent, and agriculture 5.2 percent. One-fourth of the population reside in rural areas where subsistence agriculture is common. Leading exports included petroleum, automobiles, and manufactured and assembled products (including electronics and consumer goods). Per capita GDP in 1998 was about \$4,420. Consumption and wages, while slowly rising, remained below 1994 levels, contributing to high crime rates and social tension. Approximately 40 million persons live below the official poverty level, of whom 22 million qualified for government assistance because they are extremely poor. According to official statistics in February, 49.6 percent of urban workers earned no more than twice the daily minimum wage. The top 20 percent of the population received over 50 percent of total income, while the bottom 20 percent earned less than 5 percent.

The Government generally respected the human rights of its citizens, although serious problems remained in some areas and some states present special concerns. Continued serious abuses included extrajudicial killings, disappearances, torture, police corruption, poor prison conditions, arbitrary arrest and detention, lengthy pretrial detention, lack of due process, judicial inefficiency and corruption, illegal searches, attacks against journalists, assaults and threats against human rights monitors, violence against women, discrimination against women and indigenous people, child prostitution and abuse, limits on worker rights, and extensive child labor in agriculture and the informal economy. Reports of vigilante violence decreased.

Reforms in the administration of justice proceeded and intensified as the Federal Judicial Council created new tribunals and established merit-based hiring and promotion procedures; however, the Government had limited success ending the culture of impunity that pervades the security forces. The Government continued to fund the National Human Rights Commission (CNDH), which investigates complaints of abuse and makes recommendations to the Government. The Government implemented many of them, including prosecuting some abusers and sanctioning others.

Guerrilla attacks against government buildings and personnel continued, and often resulted in loss of life and injuries.

## **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, both the military and police, committed extrajudicial killings. The states of Guerrero, Morelos, and Nuevo Leon were the scenes of the most notorious cases. In the most politically significant incident, the head of the Morelos state antikidnaping police unit was arrested on January 28 while trying to dump the body of Jorge Nava Aviles, whom the police apparently had detained, tortured, and killed. The state attorney general and police chief also were implicated in the case and were arrested on March 8. They awaited trial at year's end. Constant pressure from local nongovernmental organizations (NGO's), massive public demonstrations, and a CNDH report highly critical of the Morelos state government led the state legislature to initiate impeachment proceedings against Governor Jorge Carrillo Olea, which contributed to his de facto resignation on May 18.

On February 26, Gerardo Villarreal Rodriguez died in Nuevo Leon, after being tortured by four state police officers. His body was discovered the next day in a shallow grave. A local television station broadcast a taped conversation in which state police chief Americo Melendez Reyna asked the state

attorney general for help in covering up the crime. Melendez Reyna immediately left office.

In Chiapas violence and volatility continued in the aftermath of the December 22, 1997, Acteal massacre (see Section 1.g.). On January 12, panicky state police in Ocosingo, Chiapas, opened fire on rock-throwing demonstrators protesting the massacre. One demonstrator was killed and a small child was wounded as police fled the scene. A nearby military unit established a roadblock and quickly detained the 22 state police involved in the incident. Although videotape showed at least three police officers shooting at demonstrators, by June all but one of the accused had been released, and he was charged only with malicious wounding. The case was pending at year's end. In Chavajeval, Chiapas, eight apparent EZLN partisans and two state police officers were killed on June 10 in an exchange of fire when members of the police and the military attempted to enter the village to execute arrest warrants. A total of 9 persons were wounded and 53 were arrested in this and 2 other law enforcement operations at El Bosque and Union Progreso (see Section 1.g.).

On June 7, in El Charco, Guerrero, army troops killed 12 alleged members of the rebel Revolutionary Army of the People's Insurgency (ERPI), a breakaway faction of the Popular Revolutionary Army (EPR), in a firefight. Five individuals were wounded and 22 were arrested (see Section 1.g.).

On June 19, officers detained seven members of the Grupo Beta police unit following the killing of an alleged migrant smuggler. Officials are investigating whether the victim was killed after he had been detained and whether evidence was planted on him.

In four 1997 cases--those in Acteal, Buenos Aires, Zapopan, and San Pedro Nixtalucum--the Government had mixed investigative and prosecutorial success. Following the Acteal massacre, federal Government Secretary Emilio Chuayffet Chemor (the ranking cabinet member responsible for Chiapas policy) and Chiapas Governor Julio Cesar Ruiz Ferro resigned. On January 8, the CNDH found state government officials culpable for failing to respond to initial reports of the massacre and negligent in their investigation of past incidents. It called for the resignation of the Chiapas secretary of government, the state attorney general, and several high-ranking police officials. The new governor accepted the CNDH's recommendations, and most of those officials resigned. Due to the seriousness of the case, as well as signs that state officials were involved in a coverup, the federal Attorney General's office (PGR) took over the investigation. The PGR interviewed the former governor and state officials named by the CNDH. It also requested 129 arrest warrants, of which the judiciary granted 116.

On December 20, the PGR issued a report attributing the Acteal massacre to a history of confrontations between communities in Chenalho, the existence of an illegal EZLN municipal council in Chenalho, the neglect of local authorities responsible for the administration of justice, and the absence of the rule of law in the area. The Attorney General also announced that 16 civilian groups were being investigated and that 32 arrest warrants were pending service. Critics of the report stated that the victims had never been part of the intracommunity conflict in Chenalho.

At year's end, in criminal and administrative proceedings related to the Acteal massacre, a court had convicted seven state police officers of violating a federal firearms law and sentenced them to over 3 years in prison. Ninety suspects remained in jail and trials were continuing at year's end. The Chiapas state comptroller general banned 11 former state officials from holding a state office for an unspecified period of time, including the former secretary of government, the former attorney general, and a retired brigadier general who was a coordinator for the state police at the time of the massacre.

Trial proceedings continued for 25 of the 35 security force personnel from the Jaguar and Fox units charged with killing six persons on September 8, 1997, in the Buenos Aires neighborhood in Mexico

City. On June 3, the authorities released three high-ranking military officers, including Lieutenant Colonel Moctezuma Ilhuicamina Rodriguez Aepeda, Director of the Jaguar unit, Colonel Jesus Alonso Valdez, motorcycle police chief, and Abrosio Cruz Martinez, a group chief, despite evidence that placed all three officials at the scene of the crime. On June 5, the Federal District Superior Court ruled that 10 of the 35 jailed police would be released due to insufficient evidence. On June 15, the authorities indicted Brigadier General Mauro Tello Quinones, task force coordinator, on charges of homicide. General Jose Lamberto Ponce Lara, whose bus at the crime scene contained bloody footprints, remained in custody. The case was pending at year's end.

Twenty-eight soldiers remained in custody for the December 14-15, 1997, kidnaping, torture, and murder of 23-year-old Salvador Jimenez Aguilar in Zapopan municipality, Jalisco. On January 10, the president of the Guadalajara human rights commission and the state attorney general visited the La Mojonera military base in Ocotan, near Zapopan, where the soldiers were being detained. They reviewed the evidence against the accused and judged the military criminal justice process "a fair one." The case was pending at year's end.

There were no new developments in the investigation into the March 1997 incident at San Pedro Nixtalucum, El Bosque municipality, Chiapas, in which police killed 4 persons and detained 24 others during a confrontation between PRI supporters and opponents.

There were localized incidents of vigilante killings and violence. In Huejutla, Hidalgo, a mob numbering up to 1,000 persons lynched two presumed kidnapers, set fire to the courthouse, and burned five patrol cars on the evening of March 25. Earlier that day, passersby had seized the victims as they allegedly attempted to kidnap four young girls. After the authorities assumed custody of the suspects, a radio station incited public anger by falsely broadcasting that the suspects had planned to sell the girls in Texas and were about to be released on bail. Arriving at the riot scene, the Governor attempted to calm the crowd, but when that failed he ordered state police to arrest 17 members of the mob. At year's end, the 17 persons were awaiting trial on charges ranging from public disturbance and destruction of public property to murder.

There were EPR guerrilla attacks in Oaxaca and Guerrero. EZLN guerrillas committed several killings (see Section 1.g.).

In December the authorities concluded the trial of Raul Salinas de Gortari, brother of former president Carlos Salinas, on charges of being the intellectual author of the 1994 murder of PRI leader Jose Francisco Ruiz Massieu. Salinas maintained his innocence; a verdict was expected in early 1999.

In the 1994 Ejido Morelia case, where the army was alleged to have tortured and executed three men in Chiapas, the Inter-American Commission on Human Rights (IACHR) determined on March 6 that the Government's inquiry was incomplete and recommended, among other things, that the Government appoint a special prosecutor, punish the guilty, and indemnify the families of the victims. The IACHR scheduled a follow up hearing in October; the Government decided not to attend because the matter was "closed."

#### b. Disappearance

There were credible reports by a group of NGO's including Amnesty International (AI) of an increase in disappearances in the 1990's, although the CNDH reported receiving a decrease in complaints for the first 5 months of the year. AI reported that after the widespread reports of disappearances in the late 1970's and early 1980's, the number of cases had dropped dramatically. However, since 1994 there has

been a significant increase in new cases. AI reported that most disappearances took place in a counterinsurgency or antinarcocontext and found evidence of police involvement strong or incontrovertible. Some victims reappeared weeks later bearing signs of torture, according to AI. Other victims were killed.

Members of the security forces were responsible for disappearances, some of which included torture and the death of victims (see Sections 1.a. and 1.c.). In Chiapas on August 11, the attempted kidnaping of a wealthy rancher by state police officers was foiled by the army's rural guard. In Jalisco on August 27, the operations chief for the state directorate of public safety was detained on charges of kidnaping.

In July the Miguel Agustín Pro Juárez (PRODH) human rights center, 10 other NGO's, and the PRD party published a report on 1996-98 disappearances that asserted that the security forces or armed civilian groups were responsible in the majority of 97 disappearance cases.

Statistics compiled by the CNDH's office on disappearances showed an increase in the 1990's. There were 437 disappearances reported so far in the 1990's, compared with 127 in the 1980's and 536 in the 1970's. According to the CNDH, which only seeks to locate those missing, the success rate in locating persons who have disappeared, either confirming their death or finding them alive, was 51 percent in the 1990's, compared with 31 percent in the 1980's, and 18 percent in the 1970's. The Commission received 13 reports of disappearances from January 1 to May 31 and located all but 2 of the victims.

Since 1993, according to the director of the Association of Families of Disappeared Persons, 198 persons have disappeared in Chihuahua state, particularly around Ciudad Juárez. The association alleged that the security forces were behind many of the disappearances and argued that the cases had not been investigated properly for that reason. In fact, an investigation supervised by the first three special prosecutors ended after members of an elite, specially trained PGR police unit, sent to Ciudad Juárez to assist the prosecutors, were themselves arrested in May for kidnaping and other serious crimes in Chihuahua. Nevertheless, the authorities denied the association's charges and claimed that the disappearances were connected to drug trafficking. In February the association provided the press with a list of officials who allegedly participated in kidnapings. The association reported that the PGR agreed to appoint a fourth special prosecutor to investigate the disappearances.

There was no progress in the investigations of the 1995 disappearances of peasant leader Gilberto Romero Vasquez or journalist and human rights activist Cuauhtemoc Ornelas Campos.

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

The Constitution prohibits torture; however, it continues to be a serious problem. Although the Constitution excludes as evidence confessions obtained in the absence of the accused's defense attorney, and the law excludes coerced confessions, including those extracted under torture, police regularly obtain information through torture, and prosecutors use this evidence in courts. In addition to the constitutional prohibition, the Federal District and all states, except Hidalgo, prohibit torture. However, members of the security forces continued to torture and abuse detainees; at times such torture resulted in the death of the victims (see Section 1.a.). The most commonly used methods of torture were threats, beatings, asphyxiation, and electric shock.

There are persistent reports by NGO's of widespread uses of torture by the police and the security forces. Nigel Rodley, the United Nations Special Rapporteur on Torture, reported in January that torture continues to occur despite the fact that the country has in place an array of legal safeguards. NGO's reported extensive use of torture by the security forces, particularly against suspected guerrillas (see

Section 1.g.). The IACHR report described evidence of torture of alleged EZLN members.

The CNDH reported that complaints of torture rose to 58 in 1997-98, a 26 percent increase over the previous year. Responding to these complaints, the CNDH issued five recommendations to the military, two to the PGR, one to the federal prison director, and eight more to various state governments. The CNDH does not maintain statistics on torture complaints made to state human rights commissions. Poorly trained and ill-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.

For example, a defense attorney in Tuxtla Gutierrez, Chiapas, accused state police of torturing 27 Tzotzile Indians arrested during the police operation in El Bosque municipality on June 10 (see Section 1.g.). The attorney contended that police were seeking information on the EZLN and forced the Indians to confess to crimes they did not commit.

In another case, Erika Zamora and Efren Cortes, who were captured by the military during the July 7 incident at El Charco, Guerrero, maintained that they were tortured at army headquarters in Acapulco, Guerrero, and forced to sign prepared confessions (see Section 1.g.).

The authorities punish few officials for torture. Prosecution of torture cases was hampered by the reluctance of many of the alleged victims to file formal charges out of apparent fear of reprisal. However, in recent prominent cases, public officials have been sanctioned for employing torture. In Morelos the head of a state police antikidnaping unit, the state chief of police, and the state attorney general were arrested after being implicated in torture (see Section 1.a.). Nuevo Leon's state judicial police chief was fired after trying to cover up torture and murder committed by four of his officers (see Section 1.a.). In Mexico City former federal police chief Adrian Carrera Fuentes was sentenced on July 1 to 4 years in prison for torturing Fernando Rodriguez Gonzalez and Maria Rodriguez Arauz, two witnesses in the Ruiz Massieu murder investigation. In addition, the federal Comptroller General barred Carrera Fuentes from holding public office for 30 years and imposed penalties ranging from 10 to 20 years' imprisonment on a former PGR inspector general and nine other former PGR officials for participating in or permitting the torture.

Government officials conceded the country's serious human rights shortcomings. In a February 19 speech, Attorney General Jorge Madrazo, a former CNDH president, acknowledged that human rights were violated during his tenure, but he pointed to the jailing of over 200 officials as evidence of his commitment to root out corrupt police officers. Similarly, on March 4, the Executive Secretary of the national public safety system (part of the Government Secretariat) admitted that police corruption was a serious problem. CNDH president Mireille Roccatti testified to Congress on July 30 that human rights violations continued, perpetrated mainly by the police.

These admissions coincided with several cases that made police corruption impossible to ignore. Federal police in Chihuahua state were arrested on kidnaping charges in January, May, and June. The police detained in May were supposedly assisting prosecutors investigating disappearance cases (see Section 1.b.). In Sinaloa federal police were arrested in June for extortion and organized crime.

The IACHR report described a definite pattern of rape and sexual assault committed by state agents. The Commission stated that it had received information indicating that some women, particularly those in detention, are the victims of sexual assault either by or with the consent of state agents. In Mexico City, three teenaged girls charged on July 19 that they had been kidnaped, raped, and held prisoner in a stable for at least 3 days by members of the Mexico City mounted police. In response, the authorities held 15

policemen in custody and charged at least 9 of them with rape and kidnaping. Threats from the policemen's families and sharp questioning by defense lawyers caused two of the girls to recant their testimony during the first phase of the trial in September. While the ensuing public criticism forced local prosecutors to provide more support for the girls, the incident reflected the common plight of rape victims in the judicial system (also see Section 5).

On July 30, five prostitutes presented a complaint against the Mexico City attorney general's office (PGJDF) for refusing to attend to a case in which a prostitute accused 15 police officers of rape. Mexico City's attorney general ordered an investigation. In December a woman reported that she had been raped by a guard during her first day at the Eighth Street jail in Tijuana. After she declined to press charges for fear of reprisals, prison authorities filed a criminal complaint against the guard.

An NGO report alleged that police were responsible for 35 percent of attacks on journalists (see Section 2.a.). Police sometimes beat and robbed illegal immigrants (see Section 2.d.). Police also fired on protesters on one occasion (see Sections 1.a. and 2.b.).

The director of the Federal District's professional training institute declared that 200 police and civilian employees of the PGJDF were under investigation for corruption, 80 of whom already had been discharged. Mexico City Mayor Cuauhtemoc Cardenas pledged to clean up the city's police, but several of his appointees to high police posts resigned when old charges of corruption and human rights abuses resurfaced.

The PGJDF reported an average of 679 crimes, 465 of them violent, every day. These numbers notwithstanding, real crime levels were almost certainly higher. A researcher at the Metropolitan Autonomous National University found that 70 percent of Mexico City's crime went unreported and that 77 percent of adults had been or knew someone who had been the victim of a violent crime in the past year. Most citizens view the police as corrupt and unhelpful and believe that the justice system in general is also corrupt, contributing to the high number of crimes that go unreported.

Faced with this crisis, the authorities attempted to reform the justice system. The PGR reorganized, increased its efforts to root out corruption, provided better training to law enforcement personnel, and administered background and polygraph tests to approximately 1,200 agents in special units. In February Attorney General Madrazo announced that he would work with state attorneys general to professionalize the police. Mexico City attorney general Samuel de Villar started training programs on August 17 for the PGJDF's 8,800 police and civilian officials. The Government announced a national public safety plan on August 26 that, among other things, proposed to deal with corruption and the lack of training by weeding out corrupt police and creating a national training academy. In November the authorities arrested 87 police officers and private security guards with outstanding arrest warrants in Mexico City and three adjoining states, as part of a national program to purge police and private security companies of possible criminals.

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, but it has not been in existence long enough to have its effectiveness measured; no results have been reported.

On January 31, PGR elements raided the home of the Marianist Brothers, a Rome-based Catholic

religious order dedicated to education. The Marianist Brothers are teachers at a junior high and high school in Tijuana. The raid on the Marianist home was part of an operation against five homes in the Lomas area of Tijuana. Despite the arrest of a possible drug cartel gunman at one home, the bungled raid on the religious home triggered a wave of public protest over PGR methods and tactics. Public anger over the raid was widespread and vocal, including newspaper advertisements by the religious and business community that criticized PGR tactics.

Prison conditions are poor. Prison guards often are poorly trained and corrupt, prison facilities inadequate and overcrowded, and drug and alcohol use rampant. Prisoners complained that they must purchase food, medicine, and other necessities from guards or bribe guards to allow the goods to be provided by family and friends. Some prisoners usurped the authority of prison officials and coerced other prisoners by means of influence peddling, drug and arms trafficking, violence, sexual abuse, and protection payoffs. Conflicts between rival prison gangs, often involved in drug trafficking, continued to spark lethal violence. While the authorities investigate some prison officials for abusing prisoners, they more commonly dismiss those who commit abuses or charge them with only minor offenses.

On April 14, a riot broke out at Reclusorio Preventivo prison in Puente Grande, Jalisco. According to press reports, over 100 inmates were injured in the incident. The prison is overcrowded, underbudgeted, and understaffed.

The penal system comprises 441 facilities: 4 federal penitentiaries, 8 Federal District prisons, 280 state prisons, and 149 municipal jails. The prison system nationwide suffered from 22 percent overcrowding, according to the Secretariat of Government. The most overcrowded facilities were Mexico City's Reclusorio Norte prison at 256 percent above designed capacity and Reclusorio Oriente prison, at 189 percent. There is one "model" prison in Ciudad Ayala, Morelos. It is for men only, offers rehabilitative workshops and activities, and a prisoner-staffed cafeteria.

In July Federal District prison director Carlos Tornero Diaz affirmed that Mexico City had complied with 94 percent of the recommendations from the Federal District's human rights commission. However, he admitted that guards supply 40 percent of the illegal drugs smuggled into the prisons and that inmates lacked sufficient drinking water.

Although the Constitution calls for separation of juveniles from older prisoners, men from women, and convicted criminals from detainees held in custody, in practice these requirements were routinely violated as a result of overcrowding and corruption. Moreover, prison officials not only encouraged sexual liaisons between female inmates and male prisoners and guards, but also coerced female inmates into sexual relationships.

From May 1997 to May 1998, the CNDH conducted 224 visits to 89 prisons in 27 states to inspect the facilities and investigate prisoner complaints. There is no specific law or regulation regarding the ability of NGO's to visit prisons; however, in practice such visits are allowed and are common. For example, the Democratic Lawyers National Front provided legal representation to inmates suspected of EZLN affiliation, and its representatives were allowed to visit their clients in prison. In May the Government and the International Committee of the Red Cross (ICRC) signed an agreement that allows the ICRC to expand its prison visits to Chiapas.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, the police and prosecutors continued to detain citizens arbitrarily. Arbitrary arrest and detention were among the most common human rights

abuses. Legally, a prosecutor may hold a detainee no more than 48 hours before he must present the accused to a judge, except when the accused is caught in the act or within 72 hours of committing a crime.

The Constitution provides that the authorities must sentence an accused person within 4 months of detention if the alleged crime carries a sentence of less than 2 years or within 1 year if the crime carries a longer sentence. These periods can be extended if the parties agree. In practice, judicial and police authorities frequently ignored these time limits. Criminal defendants often were held with convicted prisoners. Furthermore, many detainees reported that judicial officials often solicited bribes in exchange for not pressing charges. Those able to pay were released from custody. Corruption is rampant throughout the system.

In December Congress, reacting to a significant increase in crime, passed a legal reform bill that among other things made it easier for the police to arrest suspects without warrants. The provision was one of a series of reforms intended to enhance the enforcement and counternarcotics capabilities of the law enforcement authorities.

By May 31, the CNDH had received 198 complaints of arbitrary detention. Most of these complaints came from indigenous communities, many of which allegedly had links to the EZLN or the EPR. Of the 22 persons detained in El Charco, Guerrero, after the June 7 clash between the army and the ERPI (see Section 1.g.), all but 2 were released for lack of evidence. The PRODH reported that 4 of the original 22 detainees were minors, who were held incommunicado until July 20.

In Chiapas the majority of detainees who complained of arbitrary arrest were apprehended in connection with the razing of self-proclaimed autonomous municipalities (see Section 1.g.). On May 15, the CNDH determined that 16 persons had been arbitrarily detained following a combined federal-state police dismantling of such an entity in Taniperlas, Ocosingo in April. The CNDH recommended that the charges against the 16 detainees be dropped, but state authorities ignored that recommendation. Human rights NGO's, such as the National Network of Human Rights Organizations, All Rights for All, and the PRODH, determined that the 16 persons were being detained for political reasons. On April 19, the authorities freed four on bail and dropped the serious charges against them. On July 14, the Chiapas supreme court dismissed some of the charges against nine others and on September 2 released an additional four on bail. One additional detainee was released on October 30. Seven of the original 16 persons arrested were still in custody at year's end, even though 5 are eligible for bail.

Gerardo Demesa Padilla, who was arrested in connection with community efforts to block construction of a golf course in Tepoztlan, Morelos, was convicted in 1997 of being an accessory to manslaughter. After the CNDH recommended his release because of the lack of credible evidence, a judge released him in May.

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 who were detained. 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.

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

#### e. Denial of Fair Public Trial

The judiciary is generally 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. Although the Zedillo administration generally respected the judiciary, past administrations did not always respect the judiciary's independence. The judiciary also suffers from inefficiency, an antiquated Legal Code, lack of training, and corruption; problems were more serious in some states than in others.

The federal court system consists of a Supreme Court, 91 circuit courts of appeal, 49 courts of appeal, and 185 district courts.

Efforts to implement the 1995 judicial reforms continued. As chief agent of those reforms, the Federal Judicial Council created 53 new tribunals and established a merit-based procedure for selecting new judges and promoting and transferring current ones. It also reviewed the performance of 83 probationary magistrates and denied life tenure to 12. Authorities did not investigate any judges during the year, and no progress was reported in any ongoing investigations.

Based on the Napoleonic Code, the trial system consists of a series of fact-gathering hearings at which the court receives documentary evidence or testimony. Court officials may add notarized documents (that are not authenticated) into the case file. A judge in chambers reviews the case file and then issues a final, written ruling. The record of the proceeding is not available to the public; only the parties have access to the official file, although by special motion the victim may have access to it.

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 of the accused and journalists in the courtroom.

Despite the constitutional right to an attorney at all stages of the criminal proceedings, in practice the authorities often did not ensure adequate representation for many poor defendants. Attorneys were not always available when a police officer or a prosecutor questioned the accused. Sometimes a defense attorney may attempt to represent several clients simultaneously by going to different rooms to certify a formal appearance, despite not having attended the full proceedings. A new public defender law passed in mid-1997 improved that system in the federal courts and created a federal Public Defender Institute. In the case of indigenous defendants, many of whom do not speak Spanish, the situation is often worse. Although the right of the accused to a translator is implied in the Constitution and provided for under Federal District and federal law, courts do not routinely furnish translators at all stages of the criminal proceedings.

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, as was done in the Guadalajara case (see Section 1.a.). The Constitution allows civilian authorities to assume jurisdiction in cases involving military personnel accused of common offenses.

On December 18, approximately 50 members of the armed forces marched in Mexico City to protest what they believed to be an unfair military justice system. Although the number of marchers was small, a public protest by active-duty military personnel was highly unusual. The authorities charged the leader of the group with desertion, and subsequently arrested five lieutenants who participated in the march and charged them with sedition.

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 in the family, home, and personal correspondence. The law requires search warrants, but unlawful searches were reportedly common. Although the law allows electronic surveillance with a judicial order, it prohibits such surveillance in cases of electoral, civil, commercial, labor, or administrative matters.

On March 3, PRD Senator Layda Sansores uncovered what she asserted to be a government wiretapping operation in Campeche state. The Government denied involvement, and the PGR charged three persons found at the scene with illegal wiretapping. The case was pending at year's end. Also in March, federal Deputy Santiago Creel, a PAN member, claimed to have discovered eavesdropping equipment in his Mexico City offices; the responsible parties were never found.

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

There were numerous allegations of the use of excessive force and the violation of humanitarian law. Incidents in Chiapas between the security forces and EZLN sympathizers and in Guerrero between the army and EPR and ERPI guerrillas led to many of these accusations. Several NGO's reported that the largest number of disappearances were perpetrated by the army (see Section 1.b.).

As a first step toward a comprehensive peace agreement, the Government and the EZLN signed the San Andres peace accords on February 16, 1996. However, since then the Government and the EZLN have remained divided on how to codify the accords. After criticism from President Zedillo, Bishop Samuel Ruiz, head of the National Intermediation Commission for Chiapas (CONAI), resigned in June, and the commission was dissolved (see Section 2.c.). Although the ELZN and the COCOPA congressional commission met in November, the peace talks remained stalemated.

Since 1996 EZLN supporters have established 38 "autonomous municipalities" in Chiapas. The Government did not recognize these communities, considered them illegal, and dismantled four.

On April 10, the EZLN declared a new autonomous municipality, "Ricardo Flores Magon" in Taniperlas, Ocosingo municipality. The next day, state and federal security forces attacked it and arrested 12 foreigners and 16 indigenous persons. The foreigners were expelled from the country. While some of the indigenous defendants posted bail, others stayed in prison (see Section 1.d.).

On May 1, security forces entered a second autonomous municipality, "Tierra y Libertad," in Amparo Aguatinta, to free a Guatemalan refugee being held there. They arrested 61 persons and broke up the community. On June 3, 1,000 members of the police and military forces entered a third zone, Nicolas Ruiz, a PRD-controlled town that had declared independence, and arrested 167 persons. Security forces claimed that local PRI supporters had been expelled from the community.

The fourth government operation occurred at the El Bosque municipal seat, on June 10. At the same time, security personnel entered the nearby towns of Chavajeval and Union Progreso to execute arrest warrants. The Chavajeval operation led to the first clash between the army and the EZLN since 1994. In all three locations, a total of 8 EZLN partisans and 2 state police officers were killed, 9 others were wounded, and 53 were arrested.

Internal conflict also led to clashes outside Chiapas. On the night of June 6, the army and the ERPI clashed in El Charco, Guerrero. Twelve persons, all guerrillas according to the Government, were killed. After investigating the incident, human rights NGO's found it suspicious that the military had sustained no casualties if, as the army asserted, there had been an intense firefight between troops and well-armed guerrillas. The authorities later released 20 of the persons arrested during the incident; they kept 2 persons in jail and subsequently arrested 2 more individuals. The Government insisted that those detained confessed to being guerrilla leaders, while the accused claimed that the confessions were false and extracted under torture (see Section 1.c.).

On November 10, between 20 and 50 alleged EPR guerrillas attacked police posts in a small town in Guerrero. Two guerrillas and one police officer were killed.

On December 13, four masked men ambushed trucks carrying villagers, killing one child and wounding seven other villagers, in El Bosque. Eyewitnesses blamed the attack on the EZLN; the state attorney general was investigating the incident at year's end.

Armed civilian groups, controlled by local political bosses loosely affiliated with the PRI, were alleged to have committed many human rights violations in Chiapas, including the Acteal massacre. NGO's, such as the PRODH, the Fray Bartolome de las Casas Human Rights Center in Chiapas, and the Mexican Commission for the Defense and Promotion of Human Rights (CMDPDH), identified at least nine such groups. The NGO's contended that these groups were not only the private armies of local bosses, but also army surrogates armed by the military and used to attack the EZLN. The Government denied these allegations and likewise rejected the existence of "paramilitary" groups. The state government declared that it was investigating the NGO's charges, and the PGR probe into the Acteal massacre included scrutiny of armed civilian groups. Human rights NGO's and some press accounts explicitly linked the Government to these groups, although they presented no hard evidence of federal government support.

In December the Fray Bartolome de Las Casas center and the PGR published conflicting reports on the Acteal massacre. The Fray Bartolome report blamed the Government for sponsoring armed civilian groups in Chiapas and for failing to protect the victims. The NGO accused the Government of waging "low-intensity warfare" in Chiapas and stated that the Government was responsible for the massacre. The PGR attributed the massacre to a history of local confrontation, the presence of the EZLN, an absence of the rule of law, and the neglect of local enforcement officials.

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.

## **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 respected these rights in practice. The mass media are not subject to formal censorship by any element of government.

In a complex communications industry environment, the media were more free and independent than at any time in the country's history. However, attacks on journalists continued. Many of these attacks are carried out by drug trafficking organizations or by corrupt security personnel in the pay of such groups.

Traditionally, the Government and the media enjoyed a cozy, mutually beneficial relationship that tilted coverage and editorial opinion in the Government's favor. While many aspects of that relationship have diminished significantly, they have not disappeared entirely. For example, the Government retains the power to grant or withdraw broadcast licenses, a power that media critics argued led some broadcast media to practice self-censorship. Accordingly, old habits of accommodation lingered, and the editorial line of key news organizations maintained a bias in favor of the Government. The persistence of official influence--and its greatest concentration--was most apparent in television. Instead of paying a 12.5 percent tax on advertising revenues, television broadcasters provided free broadcast time to the Government, which gave it convenient access to this powerful medium. Official advertising in the media continues, but disguising it as news coverage is more common at the state than at the national level. The Government was in the process of privatizing the state-run newsprint sales company at year's end, and it no longer has a monopoly on the import of newsprint. Cash and noncash payments to journalists persist but are not as common as they once were, and legislation to end this practice has been enacted.

Television was especially affected by greater political pluralism, generational change in media leadership, and growing competition for advertisers and viewers, which continued to separate government and media interests. Moreover, as much of the national media developed higher journalistic standards and greater independence over the past 10 years, government influence declined. The media showed a high degree of editorial independence, particularly in the capital and other major urban centers. Direct criticism of the Government, especially in the press, was severe and commonplace.

The many credible reports of attacks on journalists constituted the most serious problem for press freedom. Such attacks have increased since 1997, although fatal assaults were well below that year's level. From January to August, the CNDH recorded 32 complaints of attacks on journalists. The Manuel Buendia foundation recorded 57 attacks during the same period. Despite the disagreement on numbers, both institutions agreed that the vast majority of attacks were intended to intimidate. An NGO report alleged that federal, state, or local police were responsible in 35 percent of the attacks. Drug trafficking organizations or corrupt security forces personnel in the pay of such groups appeared to be behind some incidents.

Homero Aridjis, a Mexican citizen who is president of PEN International, reported that he received numerous telephone death threats. The Government provided him with bodyguards.

Local officials harassed national and international journalists. The Committee to Protect Journalists documented several such instances in Chiapas and Guerrero. In most cases, local police officials stopped

and menaced the Mexican employees of international wire services trying to cover armed conflicts in those states. In April local police at the airport in Tuxtla Gutierrez, Chiapas, struck foreign photographers and tried to confiscate their film at the urging of federal immigration officials. The CNDH investigated the report, determined that the authorities acted improperly, and on May 15 recommended to the governor of Chiapas and the Commissioner of the National Immigration Institute that corrective action be taken; no action had been taken at year's end.

The CNDH and the Manuel Buendia foundation reported only one case of a journalist murdered as a result of his work. In February Luis Mario Garcia Rodriguez, a reporter for the Mexico City daily newspaper La Tarde, was shot and killed very close to a Mexico City police station. Witnesses stated that the perpetrators were from the PGR. Garcia had reported on PGR corruption and charged that PGR officials were collaborating with notorious drug traffickers. His murder remained under PGJDF investigation at year's end.

In early March, foreign journalists complained about difficulties they were having in obtaining visas, and the Government resolved these cases. Officials strongly and publicly denied that new regulations governing foreign correspondents had been instituted. In June a foreign reporter complained that he could not obtain a visa to go to Mexico City to report on events there. Since then, no further reports of foreign journalists having trouble obtaining visas emerged.

The Constitution recognizes academic freedom in higher education, and the Government respected 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 a demonstration is that groups wishing to meet in public areas inform local police in advance. Large peaceful antigovernment public demonstrations were held regularly in Mexico City and throughout the country without police interference. Police infrequently used force to disperse protesters (see Sections 1.a. and 1.c.).

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, which may participate in elections through an agreement with one political party but are not allowed to use their names or symbols during election campaigns. Political parties do not have legal status until officially recognized by the Federal Electoral Institute (IFE).

Citizens are free to associate and may form private or charitable associations. In November the Mexico City legislature passed a new law on charities that gave the city government more influence over private charities. Many charitable groups criticized the new law. NGO's are an important and vocal part of civil society. According to the NGO council of Mexico City, the number of NGO's has grown from 5,076 in 1995 to over 8,000.

#### 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 officials sometimes infringed on this right. In November the Government and representatives of many religious denominations signed a Religious Code of Conduct that reaffirms freedom of religion. The law bars clergy from holding public office and

from advocating partisan political views. The federal Office of Religious Affairs actively promotes religious tolerance.

The Government lifted almost all restrictions on the Catholic Church in 1992. The Catholic Church maintains its own schools. Nonetheless, the Church's ability to own and operate mass media is limited, and it asserts that there are restrictions on the running of schools and the raising and spending of funds.

Relations were difficult between the Catholic diocese of San Cristobal de las Casas, Chiapas, and the Government. The Government blamed Samuel Ruiz, the Bishop of the diocese, for exacerbating its problems with the EZLN and the international human rights community (see Section 1.g.). The diocese complained that its lay catechists constantly were threatened and harassed, and that foreign clergy working for the diocese could not have their visa status clarified. In February the Government expelled French Catholic priest Michel Chanteau, who had been the parish priest of Chenalho, Chiapas, for 32 years, on immigration grounds. Chanteau had blamed the Government publicly for the Acteal massacre.

The non-Catholic Christian population was growing in Campeche, Chiapas, Yucatan, and the northern border. The Evangelical Commission in Defense of Human Rights claimed that the authorities had expelled 30,000 evangelicals from San Juan Chamula, Chiapas, in the last 30 years. Municipal authorities expelled 70 evangelical Christians living in San Juan Chamula on July 26, but state officials helped them return on August 1. Societal harassment of, and pressures against, evangelical Christians continued to be a problem (see Section 5).

On December 1, the authorities withdrew an expulsion order for five foreign clergymen who had strayed near rebel territory.

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

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

The army and federal immigration authorities maintain strict checkpoints in parts of Chiapas. The focus of the checkpoints is the verification of tourist activities by persons with tourist visas. Church and human rights activists claim that the Government is fostering an antiforeigner climate.

Illegal immigrants were sometimes the victims of corrupt police. For example, 45 Guatemalans heading north were beaten and robbed by federal police on July 22 before being turned over to immigration authorities. This case notwithstanding, illegal immigrants rarely filed charges when crimes were 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.

The law protects foreigners who face political persecution.

The Government accepts the principle of first asylum and reviews each claim to asylum on a case-by-case basis with assistance from the office of the United Nations High Commissioner for Refugees (UNHCR). It usually cooperates with the UNHCR and other humanitarian organizations in assisting refugees. A possible exception to that rule occurred in July when a ship bound for Tampico, Tamaulipas picked up 10 Cubans on a raft. Immigration authorities and a Cuban consul, but not the UNHCR, interviewed the Cubans. The authorities maintained that none of the 10 persons established a well-founded fear of persecution and deported them to Cuba.

More typical of the Government's refugee policy was its cooperation with the UNHCR in the repatriation or resettlement of Guatemalan refugees, most located in Chiapas (15,029), Campeche (7,845), and Quintana Roo (2,620). As of July 31, 38,947 refugees had been repatriated to Guatemala. Approximately 4,000 more refugees are to be repatriated voluntarily before the program ends in 1999. The refugees remaining in Mexico were being offered legal permanent residence.

Between January and October, the authorities expelled 39,334 Guatemalans, 24,675 Hondurans, 22,201 Salvadorans, and 1,642 Nicaraguans. Many of those expelled were en route to the country's northern border. There were no reports of the forced return of persons to a country where they clearly feared persecution; however, UNHCR officials were not provided the opportunity to interview the 10 Cubans picked up in July.

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

The Constitution provides citizens with the right to change their government peacefully through periodic elections. Since the party's founding in 1929, the PRI has dominated politics, controlled the Federal Government, and won every presidential election. The PRI has maintained power, in part, through public patronage, use of government and party resources, and election fraud. However, political change continued to alter the nation's politics, and opposition parties continued to gain strength nationally and locally. Electoral reforms approved in 1996 and implemented in 1997 marked a transition from the traditional political system.

Presidents are elected every 6 years and cannot be reelected. In the 1997 elections the PRI lost its absolute majority in the lower house for the first time, and the opposition PRD and PAN made strong gains. The PRI holds 238 seats in the Chamber of Deputies; the PRD holds 126; the PAN holds 120; the Greens (PVEM) and the Workers Party (PT) each hold 7; and there are 2 independents. The PRI holds 77 seats in the Senate; the PAN holds 31; the PRD holds 16; the PVEM holds 2; the PT hold 1; and there are 2 independents.

On the municipal level, opposition strength is well-established. The PAN controls 12 of the 20 largest municipalities, and the PRD governs the largest urban center, Mexico City. In the year's 14 statewide elections, the PAN won the governorship of Aguascalientes, PRD candidate Ricardo Monreal was elected governor of Zacatecas, and a coalition headed by the PRD won the governor's race in Tlaxcala. The PRI won the gubernatorial contests in Durango, Veracruz, Oaxaca, Tamaulipas, Sinaloa, and Puebla, and demonstrated that it could compete successfully in a changing, more open political process. The party's first-ever open primary in Chihuahua resulted in the selection of a candidate who won back the governorship for the PRI. The PRI also won state elections in Yucatan and municipal elections in Michoacan and Chiapas.

Elections were generally free and fair. Postelection disputes or complaints by losing candidates declined significantly. However, in four states there were varying degrees of electoral disputes. In Yucatan, the PRI majority in the legislature initially refused to seat a PRD deputy. Although both the IFE and the Federal Electoral Tribunal ruled in the PRD's favor, the PRI refused to yield. The PRI finally gave in after the PRD's national leadership threatened to end all negotiations with the Zedillo administration on domestic policy. The PRD contested the PRI's legislative and gubernatorial victories in Oaxaca, but since it could not present solid evidence of fraud, the state election institute ratified the results. The same pattern occurred in Tamaulipas where the PAN complained about the PRI's victory. The opposition also complained that the elections in Chiapas could not be considered valid in view of the security situation and the difficult conditions caused by natural disasters.

Massive public demonstrations and the threat of impeachment helped drive Morelos governor Carrillo Olea from his post on May 18 (see Section 1.a.).

The Federal Electoral Institute, operating with full autonomy, organized the federal elections for the Congress and in 1997 for the mayor of Mexico City. (In subsequent elections, Mexico City is to have its own electoral commission.) The IFE has 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 has provided support to state electoral institutes in running state and local elections and was instrumental in overhauling electoral district boundaries to reflect demographic shifts.

Women and indigenous people are underrepresented in government and politics. However, the three largest political parties are attempting to increase the number of women who run for elected office through formal and informal means. They have utilized quotas requiring that a certain percentage of candidates on a party list be female, and in practice have supported female candidates over equally qualified male candidates. The PRD has set a 30 percent quota for female candidates, and 22 percent of its leadership is female. The PAN has used more informal methods, and 18 percent of its leadership is female. PRI party rules mandate that a certain number of spaces on the candidate lists be reserved for women, and 12 percent of the party leadership is female. The PRI is the only party to have had a female party president.

Women held 17.4 percent of the seats in the Congress, a 3 percent increase from the previous legislature. Two women serve in the Cabinet: Rosario Green, Secretary of Foreign Relations; and Julia Carabias, Secretary of the Environment, Natural Resources, and Fisheries. There are no women governors.

Constitutional changes in 1996 expanded the rights of indigenous people to elect representatives to national office according to traditional "usages and customs," rather than standard electoral law. These traditional customs vary from village to village. In some villages, women have neither the right to vote nor to hold office. In others, they can vote but not hold office. Women were systematically excluded from the political process by traditional "usages and customs" in most of Oaxaca state and were expected to face soon the same phenomenon in the state of Quintana Roo (see Section 5).

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

A wide variety of domestic human rights groups operate largely without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative, and, at times, responsive to NGO views. However, the Government used vigorous enforcement of its constitutional prohibition on foreigners engaging in political activities to hinder the activities of foreign human rights monitors.

After the December 1997 Acteal massacre, foreign interest in Chiapas increased significantly, and many foreigners traveled to Chiapas, often on tourist visas, to learn first-hand about conditions there. Human rights observer groups also made the journey, several on tourist visas, to observe the human rights situation and donate supplies. However, when individual foreign activists in Chiapas acted in ways that the Government considered political and inconsistent with their tourist status, the Government expelled them.

On May 1, 134 Italian human rights observers and political activists arrived to deliver humanitarian supplies and visit Chiapas. After the Government denied them permission to visit Taniperlas, the Italians

proceeded into the area anyway. The Government expelled 40 of them and announced that it would promulgate new immigration requirements for foreign human rights observers. In December a court ruled that the Government had wrongly expelled 21 of the Italians, who had appealed their deportation.

On May 27, the National Immigration Institute proclaimed new rules that required, among other things, a 30-day advance application, a 10-day limit on visits, a limit of 10 visitors per NGO, a detailed travel itinerary, and an agenda. Domestic and foreign human rights NGO's objected to these new visa requirements on several grounds: a 30-day advance application does not allow quick reaction to a changing situation; human rights observers should not be required to name persons to be visited, since that practice may endanger them and limit the observers' ability to gather information; and 10 days may not be enough time for an investigation. Human Rights Watch argued that, taken together, the rules seemed designed to restrict human rights monitoring and give the Government the right to decide which human rights organizations were legitimate. The Government claimed that it took NGO objections into account in designing the regulations and waived some requirements on a case-by-case basis.

The Foreign Relations Secretariat has an NGO liaison office, and on May 8 it created a human rights office staffed by professional diplomats. The Congress interacts with NGO's through a citizen participation committee. In December the Government accepted the jurisdiction of the Inter-American Court of Human Rights. Acceptance was nonretroactive and excepted cases involving expulsions of foreigners from the country under Article 33 of the Constitution.

NGO's continue to face many serious problems. For example, leaders and members of numerous human rights NGO's received death threats for criticizing the human rights situation. The problem became particularly acute in Chiapas where researchers Andres Aubrey, Mercedes Olivera, and Angelica Inda as well as Manuel Hidalgo, leader of the Bacosan neighborhood organization, received anonymous threats. From May 1997 through May 1998, the CNDH received 32 new death threat complaints, resolved 39 (a total that includes cases pending from previous years), and established a program to assist threatened activists in filing complaints and obtaining protection through the PGJDF.

The Government established the CNDH in 1990 to address human rights abuses. Between May 1997 and May 1998, the CNDH received 8,716 new cases, a slight increase from the previous year, and continued processing 1,376 cases carried from the previous year. By May it had concluded 8,706 of 10,092 pending cases. During the same period, the CNDH made 136 recommendations to the Government. Of these, the authorities fully complied with 27 and partially complied with 90. As a result of CNDH efforts, the authorities jailed 22 federal judicial police, 12 state judicial police, 6 military personnel, and sanctioned 287 public servants.

However, some NGO's criticized the CNDH for lacking autonomy and enforcement authority, shortcomings the CNDH recognized and lobbied Congress to correct. A bill granting the CNDH autonomy was pending before Congress at year's end. Furthermore, NGO's contended that the CNDH was too large and bureaucratic and that the state commissions were ineffective. In December the Government's Interagency Commission on Human Rights announced a national program to promote and strengthen respect for human rights.

General Jose Francisco Gallardo Rodriguez, whom the military jailed in 1993 on a range of charges, including embezzlement and dishonoring the military, continued to maintain that military authorities were persecuting him because he wrote an academic dissertation calling for the establishment of a human rights ombudsman's office in the military. Since 1996 the IACHR and Amnesty International had called for his immediate release. In March and April, General Gallardo was convicted on different charges in separate trials by two different military tribunals. Each court sentenced him to 14 years in prison. Following his sentencing, Amnesty International asserted that he had been imprisoned for what

he wrote in his academic dissertation.

## **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 human beings, avoiding privileges of race, sects, groups, sexes, or individuals." These provisions were not enforced effectively, although government and civil society made some progress in efforts to do so.

Amnesty International reported that homosexual men and women were likely to be victims of abuse and violence. Police often tolerated and sometimes perpetrated such abuse. A number of homosexuals and male prostitutes have been killed in recent years. There was no progress in the investigation into the 1994 murder of gay activist Francisco Estrada Valle.

### **Women**

The most pervasive violations of women's rights involved sexual and domestic violence, which is both widespread and vastly underreported. The penalty for rape is 8 to 14 years in prison. The law generally is enforced when the abuse is reported, but these incidents are underreported due in part to a lack of public confidence in the police. The CMDPDH maintained that a rape occurs once every 7 minutes in Mexico City. Victims report only 17 percent of rapes, and the courts penalize only 23 percent of the men eventually charged with rape. For example, a young woman told Mexico City police on May 3 that she had been beaten and raped by an acquaintance. Physical and forensic evidence supported her accusation. The police arrested and jailed the suspect 2 days later, but a judge released him on May 12 based largely on the victim's prior relationship with the accused.

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. Police are also inexperienced in these cases and unfamiliar with appropriate investigative technologies. According to press accounts, reports of domestic violence in Jalisco increased 86 percent in 1997. Press accounts also suggest that this increase is due in part to a greater willingness by women to report violence.

Since 1993, according to Chihuahua state police, 178 women have been found murdered in the Ciudad Juarez area. The police report that 29 bodies were unidentifiable, 87 cases have been solved, and 62 murders remain under investigation. They classified 90 of the deaths as sex crimes and 40 as serial murders. According to press reports, more than 130 of these murders have not been solved and there were at least 22 suspicious deaths of women by year's end. In January the authorities appointed a special prosecutor and hired foreign experts in serial killings to advise investigators. Nonetheless, women's groups charged that the authorities ignored the murders because the victims were young and poor. In apparent support of that charge, the CNDH recommended in May that the state attorney general and the mayor of Ciudad Juarez be investigated for negligence. The CNDH also determined that in its inadequate response to the murders the state attorney general's office had violated the human rights of the victims and their families.

In December 1997, Congress passed a legislative reform initiative on intrafamily violence. This law had 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. The legislation has yet to be enforced. Past legislation has been interpreted loosely; in Jalisco the authorities only need to act on a complaint if the injuries of the victim take more than 2 weeks to heal.

Under certain circumstances limited to statutory rape of a minor between the ages of 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 invoked rarely.

In Mexico City, during the first 8 months of 1997, the Center for Family Violence (CAVI) received 8,760 cases and assisted 11,732 persons. 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 1997, 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.

The IACHR reported a striking incidence of rape and sexual assault by state agents, particularly of women in detention (see Section 1.c.).

Over 1 million women each year, according to the CMDPDH, seek emergency medical treatment for injuries sustained because of domestic violence, the fourth highest cause of death for women. Groups such as the nongovernmental Center for Research and Care of Women are working to educate both men and women in an effort to counter the widespread view of domestic violence as a private act that is common and therefore tolerated, and to deter future violence.

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 cannot bring suit to establish paternity, and thereby obtain child support, unless the child is a product of rape or cohabitation; the child resides with the father; or there is written proof of paternity.

The Federal Criminal Code includes penalties for sexual harassment, but victims were reluctant to come forward and cases were difficult to prove. Sexual harassment in the workplace was considered widespread by NGO's and women's agencies.

The Constitution and labor law provide that women 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 typically were paid less and were more likely to work in lower paying occupations. According to an academic study, even though girls and boys attended school at similar rates, a woman on the average needs 4 more years of education to earn the same salary as a man in a comparable position.

Labor law includes extensive maternity protection, including 6 weeks' leave before and after childbirth, and time off for breast feeding in adequate and hygienic surroundings provided by the employer. During pregnancy, the law requires employers to provide full pay with no dismissals, heavy or dangerous work, or exposure to toxic substances. To avoid these expensive requirements, some employers, including some in the in-bond export processing (maquila) industry, reportedly required pregnancy tests in preemployment physicals or exposed pregnant women to difficult or hazardous conditions to make them quit. The U.S. National Administrative Office (NAO), under terms of the North American Agreement on Labor Cooperation (NAALC), the labor side agreement to the North American Free Trade Agreement (NAFTA), accepted a challenge to these practices in the maquila industry. On January 12, the NAO

recommended ministerial consultations. As a result, the U.S. and Mexican Secretaries of Labor agreed in October to hold a conference in March 1999 on gender discrimination in employment.

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 1997 and negotiated agreements with an increasing number of state governments to expand and coordinate labor inspections better, the number of maquila plants far outstrips what state and federal inspectors can monitor.

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 a woman's consent. From May 1997 to May 1998, the CNDH received four complaints of forced contraception. There are 15 formal complaints under review by the National Medical Arbitration Commission (CONAMED), 10 for IUD insertion without informed consent and 5 for sterilization without informed consent. Independent agencies believed that forced sterilizations exceed by several times the number of known cases, but the overall scope of the problem is difficult to quantify. Persons may not realize that procedures have been performed until after the fact, and many victims are reluctant to file complaints. Further complicating the issue, some women may recant their consent if they must affirm it for investigators in the presence of their partners. Several NGO's and gover