



[Home](#) » [Under Secretary for Democracy and Global Affairs](#) » [Bureau of Democracy, Human Rights, and Labor](#) » [Releases](#) » [Human Rights Reports](#) » [2010 Country Reports on Human Rights Practices](#) » [Western Hemisphere](#) » [Mexico](#)

2010 Human Rights Report: Mexico

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

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Mexico, with a population of approximately 112 million, is a federal republic composed of 31 states and a federal district, with an elected president and bicameral legislature. President Felipe Calderon of the National Action Party was elected in 2006 to a six-year term in generally free and fair multiparty elections. The country continued its fight against organized crime, which involved frequent clashes between security forces and drug traffickers. Security forces reported to civilian authorities; however, there were instances in which elements of these forces acted outside the government's policies.

The following problems were reported during the year by the country's National Human Rights Commission (CNDH) and other sources: unlawful killings by security forces; kidnappings; physical abuse; poor and overcrowded prison conditions; arbitrary arrests and detention; corruption, inefficiency, and lack of transparency that engendered impunity within the judicial system; confessions coerced through torture; violence and threats against journalists leading to self-censorship. Societal problems were domestic violence, including killings of women; trafficking in persons; social and economic discrimination against some members of the indigenous population; and child labor.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

The federal government or its state agents did not commit any politically motivated killings; however, security forces, acting both within and outside the line of duty, killed several persons, including minors, during the year.

As the government brought enforcement pressure against Transnational Criminal Organizations (TCOs), both the TCOs and gangs linked to them battled each other and the government for control of trafficking routes and markets. Officials reported 15,273 drug-related homicides during the year. The government continued to deploy as many as 45,000 military troops dedicated to counternarcotics activities to assist civilian law enforcement authorities. In Ciudad Juarez in April, the

government gave the lead in public security to the Federal Police, which deployed 5,000 elements and coordinated 2,800 municipal police and 200 state police.

Killings allegedly involving government security forces included the following:

- In January gunmen claiming to be federal police twice attacked a group of Central American migrants who were traveling on a train from Arriaga to Ciudad Ixtepec, Oaxaca. The attacks left three dead, two women raped, and one minor injured. The migrants reported the incident to the Brothers Along the Road Shelter in Ciudad Ixtepec, Oaxaca, which subsequently requested help from the state's Office of the Attorney General. The investigation reported no progress by year's end.
- On March 19, soldiers killed two students at Monterrey Technological Institute. The soldiers reportedly mistook the two students for criminals they were pursuing and shot them in the university library, killing both instantly. Investigations continued but no arrest had been made at year's end.
- CNDH alleged in June that the National Defense Secretariat (SEDENA) altered the scene in which Martin and Brayan Almanza Salazar, ages five and nine, respectively, were shot and killed on April 3, to create the impression that the shots occurred during a firefight with a criminal gang. CNDH concluded that the children had been killed by direct fire from army troops on the road from Nuevo Laredo to Reynosa, Tamaulipas; however, military findings concluded that the children had been killed by shrapnel from a grenade thrown by members of organized criminal organizations. The incident remained under investigation at year's end.
- On August 22, soldiers on a highway in Guerrero shot and killed U.S. citizen Joseph Proctor after he failed to stop at a military checkpoint. The soldiers involved were arrested and awaiting trial by military court.
- On September 5, a military convoy fired upon a vehicle that allegedly failed to stop at a checkpoint on a major thoroughfare leading into Monterrey. A family of seven was riding in the vehicle, and the shooting resulted in the deaths of 15 year-old Alejandro Gabriel de Leon Castellanos and his father Vicente de Leon; five other family members sustained injuries. SEDENA published the names of four soldiers who had been arrested for the incident and who at year's end were awaiting trial by military court for charges of violence resulting in homicide.

There were no developments in the following cases from 2009:

- The investigation of the January migrant shooting incident involving two federal police officers and the deaths of three civilians.
- The investigation of the February abduction, torture, and killing of the president and secretary of the Organization for the Future of the Mixtec People (OFPM) in Ayutla de los Libres, Guerrero.
- The case of 12 members of the army's First Regiment of the Motorized Cavalry, Eighth Military Zone indicted for the killings of three civilians.
- The case of an army soldier arrested in connection with the shooting of Nuaa Bonfillo Rubio, a civilian killed during a bus inspection at a military checkpoint.

The military prosecutor general charged one soldier with homicide in the 2008 case from the 12th Infantry Battalion in Michoacan; the soldier reportedly opened fire at a military checkpoint on a pick-up truck, killing minor Victor Alfonso de la Paz Ortega and injuring Juan Carlos Penalzoza Garcia. According to SEDENA the soldier was subsequently released, and the military investigation had concluded.

There were no developments in the following 2008 cases of killings by security forces: the March killing of four persons in Sinaloa, the June killing of three civilians in Chihuahua, and the July killing of a teenager in Aguascalientes.

A number of killings during the year appeared to be politically motivated. Prior to mid-term elections in July, armed men shot and killed Tamaulipas gubernatorial candidate Rodolfo Torre Cantu during a campaign event. Unidentified

perpetrators killed 14 mayors of small towns in states along the northern border, allegedly for failing to cooperate with organized crime. In August the bodies of 72 migrants, 58 men, and 14 women from Central and South America were discovered in the state of Tamaulipas. The migrants were kidnapped and shot by the drug cartels.

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The National Council for Private Security stated in July that of approximately 8,000 private security firms active in the country, only 659 were registered and regulated by federal authorities. This large presence of unregulated security companies led to concerns about illegal use of weapons as well as the emergence of vigilantes, exemplified by a September incident in which residents of Asencion, Chihuahua, beat and stoned two suspected kidnapers to death and forced the resignation of the town's entire police force, which they claimed was corrupt.

b. Disappearance

There were no confirmed reports of politically motivated disappearances at the federal level; however, there were multiple reports of forced disappearances by the army and police. Most occurred in the course of security operations. In several cases of reported disappearances, security forces had detained the missing persons incommunicado for several days.

In February soldiers in Chilpancingo allegedly beat and took Guerrero Raul Evangelista Alonso from his home. Several days later in the same city, Roberto Gonzalez Mosso was abducted by masked individuals claiming to be from the office of the Deputy Attorney General for Special Organized Crime Investigations (SIEDO). At year's end neither individual had been seen and information was unavailable on the investigation of the cases.

SEDENA was investigating the case of the disappearance of Isaias Uribe Hernandez and Juan Pablo Alvarado Oliveros, two veterinarians who went missing in April 2009 while driving in Torreon, Coahuila. Family members presented complaints to the Coahuila State Human Rights Commission and state authorities. They alleged that SEDENA officials were responsible for the disappearances. SEDENA stated it had no information that military personnel were involved in the incident but were nevertheless investigating the case.

There were no known developments in the 2008 disappearance of brothers Jose Luis and Carlos Guzman Zuniga in Ciudad Juarez after they were reportedly detained by soldiers.

There were no known developments in the case of ecologist Javier Torres Cruz from Petatlan, Guerrero, who was allegedly detained in 2008 by soldiers from the 19th Battalion and reappeared after 10 days with evidence of physical abuse.

Kidnapping remained a serious problem for persons of all socioeconomic levels. The government reported a 78.8 percent increase in kidnappings compared with 2008. Express kidnappings, in which a victim is detained for a short period to extract payment, often through forcing the victim to use an ATM card to drain a bank account, remained a problem. Many kidnapping cases continued to go unreported, as families feared repercussions and often negotiated directly with kidnapers. Informed observers believed the number of cases reported to authorities was far less than the actual number of kidnappings. There were reports of police involvement in kidnappings for ransom, primarily at the state and local level.

CNDH estimated that during the year approximately 20,000 migrants were kidnapped as they attempted to transit the country to cross the border into the United States, although the National Migration Institute disputed this claim, noting that they had registered only 222 such cases during the year. Many migrants were reluctant to report such crimes due to fear of being deported.

According to the Oaxaca-based migrant shelter, Hermanos en el Camino, 40 Central American migrants were abducted from a train in December. The initial alarm was raised by several migrants who escaped and reported the event. Both CNDH and the National Migration Institute (INM) continued to investigate the incident at year's end.

There were anecdotal reports that government agents were complicit in kidnappings. Amnesty International reported instances of federal police kidnapping and extorting Central American migrants on freight trains. In November, a former director of the Chihuahua state police and several Chihuahua City municipal policemen were arrested and charged with operating a kidnapping ring.

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

The law prohibits torture and other cruel, inhuman, or degrading treatment and stipulates that confessions obtained through illicit means such as torture are not admissible as evidence in court; similarly inadmissible is any confession made directly to police. To be admissible a confession must be formally recorded before a prosecutor with the acknowledgement that it is being made voluntarily and after examination by a doctor confirming that the person has not been subjected to physical abuse.

The government took steps to implement preventive measures against the practice of torture, including applying, at the federal level, the Istanbul Protocol, which contains guidance on investigating and documenting torture and other abuses. According to the Attorney General's Office (PGR), 12 of the country's 31 states had passed laws to implement the protocol and established consultant and evaluation offices. In addition, the PGR said it had provided training on human rights and torture to its local, state, and federal staff. CNDH made 150 visits to civilian and military prisons and detention centers nationwide. During the year CNDH conducted 133 human rights-related courses for SEDENA, 153 for PGR, and 189 for Secretariat of Public Security (SSP); the courses included sections on torture.

In May the UN Subcommittee on the Prevention of Torture made public the recommendations from its 2009 report on the subcommittee's visit. The Foreign Affairs Secretariat announced in July an action plan to implement the 122 recommendations listed in the report. The ad hoc multiagency working group to implement the recommendations includes representatives from five states, as well as the Secretariat of Government, SEDENA, the Secretariat of the Navy (SEMAR), the National Migration Institute, and the National System for Integral Family Development. The plan seeks to formalize cooperation between federal and state authorities on the training of public officials, the standardization of interrogation procedures, the investigation of torture accusations, the improvement of detainment conditions, the implementation of judicial system reform, and follow-up on CNDH recommendations.

During the year CNDH received 1,170 complaints of cruel or degrading treatment and 10 torture complaints, compared with 1,105 complaints of cruel or degrading treatment and 33 torture complaints in 2009.

Human rights organizations, including Human Rights Watch (HRW), criticized SEDENA for a lack of transparency in the information it makes available to the public. As of December SEDENA's Web site indicated that seven soldiers and one officer had been sentenced since 2006 for human rights-related crimes committed against civilians. These involved a human rights case in Castanos, Coahuila, in which civilian courts tried and sentenced four soldiers for rape and battery and found four others not guilty. SEDENA further reported that 178 soldiers were under investigation and 42 were in a military trial process for a variety of human rights offenses.

According to information from human rights organization Comision Mexicana para la Defensa y Promocion de los Derechos Humanos (CMDPDH), on May 13, individuals claiming to be from SIEDO detained Juan Jose Jimenez Barahona and five other local police officers from Cardenas, Tabasco, when they were called to the Public Security Command in Huimanguillo, Tabasco. The six officers were subsequently transferred to the Tabasco Attorney General's office, where they were allegedly tortured until they confessed to having links with organized crime groups. All of the officers required medical care following the incident, and Jimenez Barahona required surgery to remove his damaged

spleen, as well as parts of his kidney and intestine. At year's end all of the officers were being detained in the Tabasco State Rehabilitation Center.

According to CMDPDH, in March 2009 soldiers from the 28th Infantry Battalion of the Second Military Zone in Baja California allegedly detained and tortured 25 Tijuana municipal police, using electric shocks, beatings, and asphyxiation to force the police to make self-incriminating statements that were used to charge them with crimes. The officers were transported to a state prison in Nayarit in May 2009. A complaint was made to CNDH, and an investigation was opened to determine the soldiers' responsibility for the alleged abuses. Human rights defenders working on the case reported receiving threats in May, causing them to halt work on the case. According to the PGR, investigations into both the abuse of the police officers and the threats to the human rights defenders continued at year's end.

There were no developments in the June 2009 case involving alleged military abuses to members of the communities of Puerto de las Ollas, Las Palancas, and El Jilguero in the state of Guerrero, and the military's investigation reportedly continued at year's end.

There were no developments in the 2006 San Salvador Atenco confrontation between local flower vendors and state and federal police agents in Mexico State. During the conflict two individuals were killed and more than 47 women were taken into custody, many of whom allegedly were raped by police officials. At year's end none of the 2,500 police officers who participated in the Atenco Operation had been convicted of any crime. According to CentroProdh, the case remained stagnant in the Mexico State judicial system.

Prison and Detention Center Conditions

Prison conditions remained poor. During the year CNDH and nongovernmental organizations (NGOs) reported that corruption, overcrowding, prisoner abuse, alcoholism, and drug addiction were prevalent in most facilities. According to CNDH, health and sanitary conditions were poor, and most prisons did not offer psychiatric care. According to accounts related to consular officers by prisoners, poorly trained, underpaid, and corrupt guards staffed most prisons, and authorities occasionally placed prisoners in solitary confinement for indefinite periods. Prisoners often had to bribe guards to acquire food, medicine, and other necessities. Prison overcrowding continued to be a common problem. According to CNDH, in July there were 222,297 prisoners in 429 facilities, approximately 26 percent above capacity. Approximately 95 percent of those inmates were men and 14 percent were juveniles. In its 2008-12 Strategic Plan, the SSP described the penitentiary system as "one of the most underdeveloped and abandoned components of public security."

Prison conditions in the country varied greatly across states and facilities. There were reports of dire conditions for prisoners due to overcrowding, posing risks both to the prisoners' physical safety and long-term health. Prisoners at the La Mesa facility in Tijuana, for example, reported: a lack of beds; unsanitary living conditions, including insects, rats, and sewage on cell floors; inadequate food; and lack of potable water. Several prisons in Mexico City were dilapidated, with broken windows and inadequate lighting. CNDH noted that lack of access to adequate healthcare was a significant problem at all facilities.

The SSP reported that during the year 150 inmates died in prison and 407 escaped in 27 separate incidents. The most significant prison riots during the year were caused by skirmishes between prisoners from rival gangs and cartels. For example: in January a fight between rival cartel members led to the death of 23 inmates in a prison in Durango; in March a fight resulted in the death of five inmates in Chihuahua; in August fighting between rival cartels killed 14 inmates and injured 10 in Tamaulipas; and in December a riot over food at the Center for Juvenile Internment in Villahermosa, Tabasco, left one inmate dead and two others injured. In August CNDH noted that conditions for female prisoners were inferior to those for men, particularly for women who lived with their children in prison. There were anecdotal reports of sexual abuse of women while in detention. Pretrial detainees were routinely held together with convicted criminals.

There were cases of prison officials abetting the escape of prisoners, including repeated instances of state prison officials at the rehabilitation center in Gómez Palacio, Durango allowing prisoners to leave the prison to commit crimes and then return to their cells. In July, prisoners from this rehabilitation center were found responsible for three killings in Torreon, Coahuila. In September 82 prisoners escaped from a facility in Reynosa, Tamaulipas. In December the attorney general declared 41 state prison officials responsible for allowing the escape of 152 prisoners from a facility in Nuevo Laredo, Tamaulipas.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. While prisoners and detainees were generally permitted to lodge complaints about human rights violations, access to justice was inconsistent and the results of investigations were generally not made public.

The government permitted independent monitoring of prison conditions by human rights organizations. The International Committee of the Red Cross, CNDH, and state human rights commissions visited detainees during the year. CNDH reported making 150 prison visits during the year in addition to 309 in conjunction with the National Mechanism to Prevent Torture. Separately, CNDH opened 688 complaint cases based on concerns about human rights violations against prisoners. CNDH also received 19 complaints of "cruel treatment."

Independent monitors are generally limited to making recommendations to authorities to improve prison conditions. Ombudsmen do not serve as legal representatives for prisoners.

The federal government worked to improve prison conditions by implementing its 2008-12 strategic plan focused on security, rehabilitation, and education. During the year the SSP trained new corrections officials, technical staff, and administrative staff. The government designated approximately 2.3 billion pesos (\$186.2 million) in the fiscal year for prison construction, upgrades, and reform. Much of that funding was dedicated to the construction of new centers and renovation of others that continued at year's end. The SSP also worked towards developing a new prisoner classification system and a new unit to oversee the classification process.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention as well as sponsoring or covering up an illegal detention. However, CNDH reported receiving 1,197 complaints of arbitrary arrests and detentions during the year.

SEDENA indicted two soldiers and one officer for their role in the January 2009 illegal detention of Arnulfo Anaya, Luis Carlos Perez, and Juan Ramon Castillo in Chihuahua. Investigations continued at the end of the reporting period.

Role of the Police and Security Apparatus

According to CNDH the government entities with the greatest number of human rights complaints filed against them were SEDENA, the Mexican Institute for Social Security (IMSS), the Federal Police, and the PGR.

Concerning the military CNDH reported that their deployment as domestic law enforcement in the struggle against TCOs led to an increased number of reported human rights abuses. SEMAR, which played an increasingly important domestic security role, saw CNDH human rights complaints more than quadruple from 42 in 2009 to 198 in 2010. Human rights NGOs continued to charge that an opaque military justice system led to impunity, pointing to a failure to openly and promptly investigate, prosecute, and convict members of the military. During the year CNDH received 1,415 complaints against SEDENA and issued 22 recommendations (certifications that a case merits further investigation or sanction) concerning allegations of human rights violations committed by members of the armed forces, compared with 30 in 2009. SEDENA accepted all of the recommendations and affirmed its commitment to collaborating with CNDH on outstanding investigations. CNDH issued six recommendations to SEMAR, compared with one in 2009; SEMAR did not accept two of

these recommendations and refused to cooperate with CNDH on cases related to the December 2009 operation against Arturo Beltran Leyva. CNDH also issued two recommendations to PGR and six to the Federal Police. All of these recommendations were accepted.

SEDENA's general directorate for human rights investigates military personnel for violations of human rights identified by CNDH and is tasked with promoting a culture of respect for human rights within the institution. However, the directorate has no power to ensure allegations are properly tried and prosecuted. Human rights NGOs such as CenterProdh complained about a lack of access to the directorate and maintained it had done little to improve SEDENA's human rights performance.

Despite a persistent lack of human rights-related prosecutions by military tribunals, SEDENA took steps to increase transparency on its handling of human rights cases. In July it inaugurated a human-rights page on its Web site, providing a partial listing of the status of military trials and their compliance with CNDH recommendations. SEDENA also arrested four soldiers and released their names in the media in conjunction with the September 5 killings of 15 year-old Alejandro Gabriel de Leon Castellanos and his father Vicente de Leon Ramirez at a military checkpoint in Nuevo Leon.

In June SEDENA founded the Community Liaison Unit that focuses on regular community outreach and identifying the needs of civilians in areas where SEDENA has engaged in military operations. This unit initiated a program of town hall meetings in regions with military presence to establish a mechanism for outreach and a forum to receive feedback from the local population.

CNDH provided human rights training to 17,656 military personnel during the year. SEDENA reported that during the year 5,136 soldiers participated in 33 courses centered on human rights, 70,016 officials attended 549 conferences, and 129,107 soldiers attended 1,653 lectures. Additionally, SEDENA routinely instructed its personnel to promote respect for human rights during operations.

CNDH received 595 complaints during the year against the federal police, which upon investigation produced a finding of 384 violations in categories that included arbitrary detention (155), noncompliance with arrest warrant procedures (20), and cruel and inhuman treatment (169). More than half the complaints received were resolved by reorienting the complainant to the proper authority (281), suspending an investigation for lack of evidence (34), and reaching an amicable agreement (six). The SSP made amends to victims and adopted procedural measures to comply with its obligations after receiving 573 complaints involving violations pertaining to treatment in prison and nine related to arbitrary detention.

During the year the SSP conducted 50 courses specifically on human rights or with modules pertaining to the topic, training a total of 2,570 personnel. The SSP also worked with the International Organization for Migration and experts from the International Committee of the Red Cross to train federal police officers. Additionally, CNDH trained 7,851 SSP officials. The SSP in collaboration with the National Autonomous University of Mexico also continued to provide human rights training to federal police officers throughout the country. Separately, CNDH provided training to 5,378 PGR personnel.

Arrest Procedures and Treatment While in Detention

Only duly authorized officials are permitted to apprehend an individual; however, a warrant for arrest is not required if the official has reasonable suspicion about the person's involvement in a crime. Bail exists, but not for persons being held in connection with drug trafficking or other forms of organized crime. In most cases persons must be presented to a judge, along with sufficient evidence to justify their continued detention, within 48 hours of their arrest. According to many NGOs, in practice there were violations of this 48-hour provision. CNDH received 346 complaints involving illegal detention, the 11th most common complaint submitted to the organization.

In organized crime cases (involving three or more persons who organize for the purpose of committing certain crimes), suspects may be held for up to 96 hours before being presented to a judge. Only the federal judicial system can prosecute organized crime cases. However, recognizing the complex nature of organized crime, the constitution was amended to stipulate that, under a precautionary procedure known as "arraigo," certain suspects may, with the approval of a judge, be detained for up to 80 days prior to the filing of formal charges. Without levying formal charges persons so detained are not entitled to legal representation and are not eligible to receive credit for time served if convicted. Human rights NGOs considered this form of pretrial detention a violation of due process that facilitated torture, and some groups alleged it was used to obtain forced confessions.

In areas involving military operations against TCOs, SEDENA personnel detained individuals without the involvement of state or federal investigators with the authority to collect evidence for use in subsequent prosecutions. The PGR claimed it was not always notified in a timely manner of the detentions, which complicated efforts to prosecute and convict arrestees.

In November 2009 the Inter-American Commission on Human Rights (IACHR) held a special session on public safety and human rights in Tijuana and heard the cases of alleged torture and human rights abuses against prisoners held under arraigo by military members or police officers.

In June 2009, 28th Infantry Battalion soldiers detained and allegedly tortured two former ministerial police officers from Baja California. Soldiers allegedly tried to force them to sign self-incriminatory confessions of extortion and crime participation, but they refused. The victims were sent to the II Military Zone installation (28th Infantry Battalion headquarters) by the Baja California state attorney, Rommel Moreno Manjarrez, and local internal affairs officers. The two former police officers presented a complaint to CNDH against II Military Zone commander General Jorge Alonso Garrido for allowing arbitrary detentions and torture; in the absence of a satisfactory response, they presented their case to the IACHR. By year's end the IACHR had not taken action on the case, nor was there information that the case had progressed in civilian or military courts.

In July 2009 soldiers detained without formal charges 20 police officers from Nuevo Leon. The police officers were reportedly tortured and forced to admit they belonged to organized crime.

While detainees usually were allowed prompt access to family members and to counsel, there were complaints that in some cases police held persons incommunicado for several days and made arrests arbitrarily and without a warrant. Human rights NGOs documented, and CNDH issued several recommendations confirming, that the army frequently detained civilians for extended periods before placing them at the disposition of civilian authorities.

According to the King's College World Prison Brief, the prison population has grown by more than 90,000 since 1998. The same study states that 42.1 percent of the prison population has not been tried in court. According to the Mexican Center for Research and Teaching in Economics (CIDE), the average period for prisoners awaiting trial is two years and of those sentenced, 14 percent were declared innocent after having served time in prison, and 85 percent received sentences of less than five years. For many of these, the time spent in prison ultimately exceeded the sentence.

The law provides time limits within which an accused person must be tried. However, due to caseloads that far exceeded the capacity of the federal judicial system and the fact that most state judicial systems still used the written inquisitorial criminal justice system, such time limits often were disregarded. CIDE and HRW reported that more than 40 percent of prisoners have never been convicted of a crime but were held in pretrial detention, often for years, waiting for a trial. Pretrial release on bond is supported by the 2008 reforms, but in jurisdictions that have not implemented the reforms, it was available only in cases in which the charges were not considered a serious crime.

e. Denial of Fair Public Trial

Although the judiciary is independent, according to CIDE, court decisions were susceptible to improper influence by both private and public entities, particularly at the state and local level. Civil society organizations reported that corruption, inefficiency, and a lack of transparency continued to be major problems in the judiciary.

International bodies have criticized the government's failure to limit military jurisdiction over human rights cases. Article 13 of the constitution states that military jurisdiction applies to "crimes against military discipline" but that military tribunals have no jurisdiction over persons who do not belong to the military. However, article 57 of the military code of justice defines crimes against military discipline as "state or common offenses that have been committed by active duty military." In practice civilian courts have generally ceded jurisdiction to the military in cases where military personnel stand accused of human rights violations committed against civilians (see Regional Human Rights Court Decisions below).

In cases in which a member of the military is arrested by civil authorities, the military may request the immediate transfer of the case to military jurisdiction. Traditionally, civilian judicial authorities grant jurisdiction to the military in all cases involving soldiers. NGOs, such as CenterProdh, maintained that human rights abuse cases involving military personnel were not handled transparently by the military justice system, giving rise to concerns about impunity in these cases.

Trial Procedures

The civilian legal system is a hybrid system. While it incorporates some aspects of common law and accusatory-style systems, it draws primarily from traditional European code-based, inquisitorial systems. The 2008 constitutional criminal justice reforms mandated implementation of an oral adversarial system and the presumption of innocence by 2016. The military employs an inquisitorial legal system. SEDENA continued to move toward an oral accusatorial system.

At year's end 10 states had passed legislation related to moving towards an oral, adversarial system and were at various stages of training and implementation, six states were legislating reforms, and seven states sought assistance to consider the reforms. Under the old system, still being used by the federal government, the federal district, and 22 states a typical trial consists of a series of fact-gathering hearings during which the court receives documentary evidence or testimony. 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 general public; only the parties involved have access to the official file and only by special motion.

The 2008 constitutional criminal justice reform establishes that defendants enjoy a presumption of innocence; however, such rights are not provided for in jurisdictions that have not finished with reform implementation and are still operating under the inquisitorial system.

The new constitutional reform provides for the right of the accused to attend the hearings and challenge the evidence or testimony presented, and the government generally respected these rights in practice. In most cases court hearings were open to the public.

While the law provides defendants with the right to an attorney at all stages of criminal proceedings, in practice this only meant that authorities had to appoint a "person of confidence," who was not required to meet any particular legal qualifications, to represent a defendant. Because of the nascent implementation stage of the 2008 reforms, not all public defenders had preparation and training to serve adequately on the defendants' behalf, and often the state public defender system was not adequate to meet demand. Public defender services were placed either in the judicial or executive branch; there rarely were autonomous public defender services. According to AI and CIDE, most criminal suspects did not receive representation until after they were placed under judicial authority, thus making individuals vulnerable to coercion to sign false statements before being presented to a judge.

Although the law provides for translation services from Spanish to indigenous languages to be available at all stages of the criminal process, this generally was not done due to limited resources. Indigenous defendants who did not speak Spanish sometimes were unaware of the status of their cases, and some suspects were convicted without fully understanding the documents they were required to sign.

On June 30, the Supreme Court freed 12 men who had been in prison for more than four years for alleged crimes that occurred in 2006 during violent protests in San Salvador Atenco, Mexico State. The Supreme Court found that the evidence against them was insufficient and that state authorities had used the legal proceedings to punish political opposition and limit free speech.

According to human rights NGOs, including HRW and AI, despite enactment of judicial reform legislation in June 2008, judges, particularly in areas that had not yet implemented the reforms, continued to allow statements coerced through torture to be used as evidence against the accused. Confessions were often the primary evidence in criminal convictions in these cases (see section 1.c.). NGOs asserted that judges often gave greater evidentiary value to the first declaration of a defendant given in the absence of legal representation. This provided prosecutors an incentive to obtain an incriminating first confession and made it difficult for defendants to disavow such declarations. For their part, law enforcement officials complained that defendants frequently made baseless claims of coerced confessions as a way to win acquittal.

The 2008 justice reform, which facilitates transition to an oral trial system: establishes strict guidelines on the use of confessions, evidence, and expert testimony; allows consensual monitoring of telephone calls; and gives police more responsibility for conducting investigations. The reform stipulates that all hearings and trials must be conducted by a judge and under the principles of public access, immediacy, confrontation, and cross-examination, promoting greater transparency and allowing defendants to challenge their accusers.

Regional Human Rights Court Decisions

In a 2009 decision in the Rosendo Radilla Pacheco case, the Inter-American Court of Human Rights found the use of military courts to try human rights cases involving civilians deficient and issued a binding ruling calling for the country to evaluate and reform this process. The Inter-American Court of Human Rights called article 57 "broad and imprecise," described it as "incompatible with the Inter-American Convention on Human Rights," and concluded that the government "should adopt corresponding legislative reforms." In March the UN Human Rights Committee observed that the country should amend its code of military justice "to ensure that the jurisdiction of military courts does not extend to cases of human rights violations" and that "in no event may military courts judge cases where the victims are civilians." The executive branch presented a proposal for military justice code reform to Congress on October 18. The reform proposes that crimes of torture, rape, and forced disappearance be removed from the purview of the military justice system. Human rights groups criticized the government's inclusion of only certain crimes in the reform instead of all human rights violations.

In November 2009 the Inter-American Court of Human Rights found in the so-called Cotton Field case that the government denied justice to and failed to prevent the deaths of Claudia Gonzalez, Esmeralda Herrera, and Berenice Ramos, whose bodies were found near Ciudad Juarez, Chihuahua, in 2001. The government had provided compensation to the victims' families but had not complied with the court's ruling to investigate the case by year's end.

In October the Inter-American Court of Human Rights ordered the government to compensate Ines Fernandez Ortega and Valentina Rosendo Cantu, who were both abused in 2002 by soldiers in Guerrero State (see section 6, Indigenous People).

On December 20, the Inter-American Court of Human Rights published its sentence in the case of Rodolfo Montiel and Teodoro Cabrera, ruling against Mexico for human rights violations committed in 1999 against the ecologists from the state of Guerrero, including violations of the rights to liberty, personal integrity, due process, and judicial protection. In its ruling the Court ordered the government to carry out, within time periods set by the Court, specific reparation measures for the victims. It reiterated previous rulings and ordered the government to remove human rights cases involving civilians from military jurisdiction.

Numerous threats and attacks against members of the Organization of Indigenous Me'phaa People (OPIM) and OFPM prompted the Inter-American Court of Human Rights to order the government in April 2009 to provide protective measures for 109 human rights defenders in Guerrero. According to local NGOs, this protection has not been forthcoming.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, including access to a court to seek damages for a human rights violation. However, for a plaintiff to secure damages against a defendant, the defendant first must have been found guilty in a criminal case, which was a high standard in view of the relatively low number of individuals convicted of human rights abuses in the country.

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

Although the law prohibits such practices and requires search warrants, during the year CNDH received 729 complaints of illegal searches, most related to the country's fight against organized crime.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Most newspapers and television and radio stations were privately owned, and the government had minimal presence in the ownership of news media.

Despite federal government support for freedom of the press, many journalists were the victims of increased threats, harassment, and violence. Reporters covering corrupt public officials and crime acknowledged practicing self-censorship, recognizing the danger investigative journalism posed to them and to their families. In an initial report following their August country review, the UN and Organization of American States special rapporteurs for the promotion and protection of the right to freedom of opinion and expression characterized the states of Chihuahua, Coahuila, Durango, Guerrero, Michoacan, Nuevo Leon, Sinaloa, and Tamaulipas as "completely silent" due to dramatic levels of media self-censorship. According to CNDH, during the year nine journalists were killed and four disappeared. CNDH reported that 66 journalists have been killed and 12 disappeared since 2000.

The PGR's Office of the Special Prosecutor for Crimes Against Journalists accepted jurisdiction over 61 cases during the year, 28 of which were found to be lacking in evidence and 33 of which were investigated or remain under investigation. In October the government announced an initiative to provide protection to journalists. NGOs Article 19 and the National Center of Social Communication criticized the mechanism's lack of funding, insufficient consultation with civil society, and

reliance on local, rather than federal, authorities for protection responsibilities. CNDH issued five recommendations on crimes against journalists during the year.

On June 28, unidentified gunmen killed two journalists in a small town near Acapulco, Guerrero--Juan Francisco Rodrigues Cortez and his wife, Maria Elvira Hernandez Galeana. Rodrigues Cortez was a reporter for the local newspaper, El Sol de Acapulco, and the secretary general of the local chapter of the National Union of Press Editors. He and his wife also edited a local weekly newspaper.

On July 6, journalist Hugo Alfredo Olivera Cartas was found dead in his vehicle on the outskirts of Apatzingan, Michoacan. Olivera owned and published the Apatzingan newspaper, El Dia de Michoacan, operated a small local news agency, served as local correspondent for La Voz de Michoacan, and collaborated with the Quadratin news agency. He specialized in covering crime in the Apatzingan area.

On July 9, a group of unidentified armed men abducted and killed Marco Aurelio Martinez Tijerina in Montemorelos, Nuevo Leon. Martinez was the producer and presenter of a local radio news program that covered various issues, including local politics.

On July 26, kidnapers later identified as members of the Sinaloa Cartel abducted four journalists in the state of Durango. Reportedly unhappy with the media's coverage of alleged cooperation between cartel members and police at a jail in Durango, they instructed media outlets to broadcast videos implicating rival cartels in the incident. Several channels eventually broadcast the unedited TCO videos, and all four journalists were subsequently released or rescued by police.

On August 7, hundreds of journalists demonstrated in several states against the violence and impunity associated with crimes against the press. The protest called for unity among journalists and criticized the government for its lack of progress on the investigations of 66 members of the press killed and 12 missing since 2000. The journalists declared the Office of the Special Prosecutor for Crimes against Journalists ineffective, claiming that it had brought criminal charges in only three of the 88 cases under consideration in the past four years.

On September 16, gunmen ambushed two employees of the Ciudad Juarez newspaper El Diario. A new photographer at the paper, Luis Carlos Santiago, died, and an intern was seriously wounded. The newspaper subsequently published a front-page editorial, asking cartels to "explain what you want from us, what we should publish or not publish, so we know what to expect."

In September the PGR announced the arrest of two persons who may have been involved in the killing of journalist Armando Rodriguez Carreon, a veteran police reporter with the newspaper El Diario, which took place in 2008 in Ciudad Juarez, Chihuahua.

The 2006 killing of Bradley Will, a documentary filmmaker and independent journalist who was shot while documenting civil unrest in Oaxaca, remained under investigation. Pursuant to a December 2009 ruling by a federal judge, Juan Manuel Martinez Moreno, the only suspect in the case, was released in February, and jurisdiction over the case was transferred to Oaxaca state authorities.

The law does not provide a legal framework for issuing permits to nongovernmental and noncommercial community radio stations. According to Article 19, the government closed down at least one community radio station in Chiapas.

Although defamation, libel, and slander are not federal offenses, 17 states have criminal libel laws making journalists vulnerable to threats of imprisonment at the state level.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that there were approximately 28 Internet users per 100 inhabitants.

There were no documented instances of the government collecting personally identifiable information.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

For a complete description of religious freedom, please see the 2010 International Religious Freedom Report at www.state.gov/g/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government respected these rights in practice. However, according to several NGOs including AI, in the course of its operations the army occasionally restricted freedom of movement. The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern. The law does not permit forced exile, and it was not practiced.

Protection of Refugees

The laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government provided temporary protection to individuals who may not have qualified as refugees under the 1951 Convention and its 1967 Protocol; however, there were no available reports that it received such requests during the year.

Pursuant to its 2008 migration agreement with Cuba, the country repatriated 154 undocumented Cubans.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. There were occasional cases of criminal-style killings that had apparent political motivations (see section 1.a.).

Elections and Political Participation

The closely contested presidential and congressional elections of 2006, in which Felipe Calderon was elected president to a six-year term, were considered generally free and fair by the majority of neutral observers, including EU representatives and local and international civil society organizations. On July 4, local legislative and gubernatorial elections, which took place in select states, were free of significant violence or claims of fraud.

The law prohibits all public and private funding of political advertisements on television or radio outside of time slots established by individual states. It also requires placement of all political campaign advertisements through the Federal Elections Institute (IFE) and stipulates allocation of broadcast time among registered political parties based on their share of the vote in the most recent election. The law also prohibits negative campaign messages and establishes public spending limits for presidential elections. Recognition as a national political party by IFE is based on having won at least 2 percent of the vote in the previous national election.

There were 27 women in the 128-seat Senate and 135 women in the 500-seat lower house. Two female justices sat on the 11-member Supreme Court, and there were three women in the 19-member cabinet. Many state electoral codes provide that no more than 70 to 80 percent of candidates can be of the same gender. All political parties continued their efforts to increase the number of women running for elected office. Some utilized quotas requiring that a certain percentage of candidates on a party list be female.

There were no established quotas for increased participation of indigenous groups in the legislative body, and no reliable statistics were available regarding minority participation in government. The law provides for the right of indigenous people to elect representatives to local office according to "usages and customs" law, rather than federal and state electoral law. Traditional customs varied by village. In some villages women did not have the right to vote or hold office; in others they could vote but not hold office.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the World Bank's Worldwide Governance Indicators and other indices reflected that corruption remained a problem at all levels of government, as some public officials continued to perpetrate bureaucratic abuses and some criminal acts with impunity. Corruption at the most basic level involved paying bribes for routine services or in lieu of fines to administrative officials and security forces. More sophisticated and less apparent forms of corruption included overpaying for goods and services to provide payment to elected officials and political parties.

By the end of the year, 16 SSP and PGR officials had been indicted for corruption since the government launched Operation Cleanup in 2008; however, none had been convicted. During the year the Customs Agency relieved more than 700 employees and replaced them with vetted officials.

President Calderon remarked in speeches in March and October that corruption was a serious problem in the police forces and a primary reason for the use of the military in the domestic counternarcotics fight. CNDH reported that police, especially at the state and local level, were involved in kidnapping, extortion, and in providing protection for, or acting directly on behalf of, organized crime and drug traffickers. Local forces in particular tended to be poorly compensated and directly pressured by criminal groups, leaving them most vulnerable to infiltration. According to a 2009 HRW report, impunity was pervasive, contributing to the continued reluctance of many victims to file complaints. Responsibility for investigating federal police criminal abuse falls under the purview of the PGR or the Secretariat of Public Administration, depending on the type of offense.

In May SIEDO arrested Gregorio Sanchez, the mayor of Cancun, and a federal judge charged him with money laundering, drug trafficking, and cooperating with drug traffickers. Officials at Cancun's municipal jail have been connected repeatedly

with TCOs, and jail director Alberto Rojas Garcia was dismissed on September 15 amid allegations that he provided assistance to the perpetrators of the August 31 bombing of a Cancun nightclub.

Other high-profile instances of corruption included the September incident involving congressman-elect Julio Cesar Godoy, who had been a fugitive for 15 months but was able to elude authorities by taking his oath in Congress and obtaining parliamentary immunity. According to public prosecutors, Godoy was in charge of providing institutional protection to La Familia. On December 14, however, Congress voted to remove this immunity. At year's end Godoy remained at large.

Migration officials were implicated in a number of cases involving crimes against migrants and human trafficking. In December Oscar Manuel Navarrete Orozco and his wife Maria America Maldonado Alfaro, both former migration officials arrested in 2007, received prison sentences of 12 and eight years, respectively, for their role in operating a migrant smuggling ring.

Despite significant institutional and regulatory changes increasing government transparency, access to information continued to be difficult in some states. The Federal Institute of Access to Public Information (IFAI), the agency responsible for information requests, received more than 120,000 such requests during the year. All states have laws complying with the 2007 constitutional reforms regarding access to information and have signed a formal agreement with IFAI to make the information system on government operations, Infomex, available for petitions for state government information.

In September IFAI ordered SEDENA to make public information related to the 1998 military operation "El Charco" in Guerrero, in which 11 persons, including one student, were killed and 22 persons were detained for four years for rebellion. SEDENA refused to comply with the order, claiming that the original request had come from an individual without residence in the country.

In July CNDH brought a case before the Supreme Court challenging the PGR's right to withhold information from CNDH. This dispute stemmed from an unresolved conflict in the law under which CNDH should have access to all information it needs to fulfill its human rights mandate and investigate serious cases, while the PGR claims the right under law to withhold information on cases under investigation. At year's end the court had not ruled.

To better manage the corruption problem, in January 2009 the government enacted legislation establishing a four-year deadline to vet personnel in all of the country's 2,600 police forces using a series of testing mechanisms. The legislation requires all police forces to meet certain compensation and training standards and it makes it easier for authorities to fire corrupt or unfit officers. On August 30, 3,600 of the 34,500 Federal Police officers were dismissed after failing to perform their duties or engaging in criminal misconduct. An additional 1,020 police officers were placed under investigation for failing the vetting process.

Internal controls and vetting processes were applied to new SSP entrants and incrementally expanded to existing staff. SSP managed the "Kardex Police" registry, which provides a database of police at all levels whose records, including misdeeds, are catalogued. SSP expanded the Intranet-based communications platform, Plataforma Mexico, allowing for communication and coordination with federal and some state and local police throughout the country. At both federal and state levels, authorities provided for the establishment of Citizen Participation Councils (CPCs) to address citizen complaints about police and other justice system actors. The government's efforts to increase transparency through the Office of the Attorney General's CPC at national and state levels incorporate and institutionalize processes for receiving, addressing, and resolving citizen concerns. CPCs created "observatories" to monitor criminal justice and security issues. They developed and launched two Web sites, a toll-free hotline, and the awareness campaign called "Somos Mas" to promote the online registration of citizen complaints. However, as noted by the Washington Office on Latin America and a

number of human rights NGOs, citizen participation is limited to presenting complaints, and no clear mechanisms have been established for citizen participation in the design, implementation, and evaluation of public security policies.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. The government made periodic attempts to engage civil society, particularly on security issues but also on human rights issues, by encouraging civil society's participation in policy debates and allowing individuals to register complaints. While some NGOs reported improved engagement with the Secretariat of Government, they also expressed frustration over the difficulty to engage in constructive human rights discussions with military officials.

CNDH is the autonomous agency created by the government and funded by the legislature to monitor and act on human rights violations and abuses. It can call upon government authorities to impose administrative sanctions or pursue criminal charges against officials, but it cannot impose legal sanctions itself. Whenever the relevant authority accepts a CNDH recommendation, CNDH is required to follow up with the authority to ensure that it is, in fact, carrying out the recommendation. CNDH sends a request to the authority asking for evidence of their compliance. CNDH then reports this follow-up information in its annual report. When authorities fail to accept a recommendation, CNDH publicly condemns the authority to show their lack of respect for human rights. NGOs and international organizations often draw attention to the failure of the country's institutions to comply with or even accept CNDH recommendations.

NGOs generally praised CNDH for its investigations into alleged human rights violations but criticized its inability to bring sufficient pressure to bear upon the government to comply with recommendations.

Each of the 31 states plus the federal district has a state human rights commission, which maintains autonomy from CNDH.

The UN and NGOs reported harassment of human rights defenders. According to a November update by the Office of the UN High Commissioner on Human Rights (OHCHR), from September 2009 to October 2010, there were 37 attacks against human rights activists but only three prosecutions. The report criticized government authorities for the lack of comprehensive policies to reduce and eliminate the risks faced by human rights activists and recommended that the government establish a national mechanism for protection of human rights defenders. NGOs maintained that state and municipal authorities harassed defenders. Due to continued threats against its staff, the Tlachinollan Mountain Center for Human Rights in Guerrero had not reopened its office in Ayutla by year's end. The Inter-American Court on Human Rights ordered protective measures for five human rights defenders during the year.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status. While the government continued to make progress enforcing these provisions, significant problems, particularly violence against women, persisted.

Women

The law criminalizes rape, including spousal rape, and imposes penalties of up to 20 years' imprisonment. However, rape victims rarely filed complaints with police, in part because of the authorities' ineffective and unsupportive responses to victims, the victims' fear of publicity, and a perception that prosecution of cases was unlikely. Human rights organizations

asserted that authorities did not take seriously reports of rape, and victims continued to be socially stigmatized and ostracized.

Federal law prohibits domestic violence, including spousal abuse, and stipulates fines equal to 30 to 180 days' pay and detention for up to 36 hours; actual sentences, however, were normally lenient. This countrywide law obligates federal and local authorities to prevent, punish, and eradicate violence against women. Nevertheless, according to the NGO Citizen Femicide Observatory (Observatorio Ciudadano de Femicidios), domestic violence was pervasive and mostly unreported.

State-level laws sanctioning domestic violence are weak. Seven states do not criminalize it, and 15 states punish it only when it is a repeated offense. According to a survey conducted by the National Institute of Public Health in several of the country's rural and indigenous communities, victims did not report abuses for a variety of reasons, including fear of spousal reprisal, shame, and the view that the abuse did not merit filing a complaint.

The 2006 National Survey on Household Relationships, the most recent such survey completed, suggested that 67 percent of women over age 15 had suffered some abusive treatment. According to the Citizen Femicide Observatory, more than 1,700 girls and women were killed between January 2009 and June 2010. According to statistics from the government of the state of Mexico, femicides have increased in the state each year. With 225 cases during the year, the number of femicides has more than doubled since 2005.

According to the National Institute of Statistics and Geography, Mexico City and the 12 states of Chihuahua, Nuevo Leon, Sinaloa, Sonora, Tamaulipas, Mexico, Guanajuato, Jalisco, Morelos, Tlaxcala, Tabasco, and Yucatan experienced high rates of alleged gender-driven homicide.

FEVIMTRA--a PGR office staffed by 19 legal, administrative, and technical support professionals--is responsible for leading government programs to combat domestic violence and trafficking in persons. Its work includes prosecuting the crimes, raising awareness with potential victims and government officials, and providing the only government shelter for trafficking victims. With only five lawyers dedicated to federal cases of violence against women and trafficking countrywide, FEVIMTRA faced challenges in moving from investigations to convictions.

INMUJERES, the federal government institution charged with directing national policy to achieve equality of opportunity between men and women, reported that its national hotline established under the National Plan for a Life without Violence received 70,761 calls during the year. Although there were approximately 70 government-funded shelters, civil society and women's rights groups maintained most available shelters.

The country was a destination for sex tourists. There are no laws specifically prohibiting sex tourism, although federal law criminalizes corruption of minors, for which the penalty is five to 10 years' imprisonment.

Federal law prohibits sexual harassment and provides for fines of up to 40 days' minimum salary, but victims must press charges. Sexual harassment is criminalized in 26 of the 31 states and in the federal district; 22 of these states have provisions for punishment when the perpetrator has a position of power. According to INMUJERES, sexual harassment in the workplace was widespread, but victims were reluctant to come forward, and cases were difficult to prove.

Couples and individuals have the legal right to decide the number, spacing, and timing of children and have the information and means to do so free from discrimination. However, services, information, and public policies in the area of reproductive health were limited. Despite the existence of a national family planning program, the lack of sex education and contraceptives in public hospitals and rural areas undermined the government's commitment to reproductive rights.

In 2009 INMUJERES reported that 72.5 percent of women use some form of contraception. Information on maternal health was available at public and private health clinics and online at the Health Secretariat's Web site. Skilled attendants at delivery and in postpartum care were widely available except in some marginalized areas. According to INMUJERES the estimated maternal mortality rate in 2008 was 57.23 per 100,000 live births. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

The law provides women the same rights and obligations as men and "equal pay ... for equal work performed in equal jobs, hours of work, and conditions of efficiency." According to INMUJERES, during the year women earned on average 8.2 percent less than men for comparable work; however, in some occupations the disparity reached 51 percent.

The law provides labor protection for pregnant women. According to the Information Group on Reproductive Rights, some employers reportedly sought to avoid this law by requiring pregnancy tests in pre-employment physicals and by continuing to make inquiries into a woman's reproductive status.

Children

The country provided universal birth registration in principle, with citizenship derived both by birth within the country's territory and from one's parents.

Citizens generally registered the birth of newborns with local authorities. In some instances government officials visited private health institutions to facilitate the process. Failure to register births could result in the denial of public services, such as education or health care, to children living in communities where such services were in any event not widely available. The UN Children's Fund (UNICEF) country office survey data for 2000 estimated--based on the total population of children under the age of five when the survey was taken--that 90 percent or more of these children were registered at birth.

Child marriage has historically remained a problem, although there were no statistics available for the year. The minimum marital age in the country is 14 for girls and 16 for boys with parental consent, and 18 without parental consent. UNICEF estimated that in 2008--the latest year for which information was available--approximately 19.2 percent of women and 4.5 percent of males married before the age of 18.

The antitrafficking law prohibits the commercial sexual exploitation of children. UNICEF reported that 16,000 children were involved in commercial sex exploitation. NGOs CEIDAS, Casa Alianza, and the National Network of Shelters reported that sex tourism and sexual exploitation of minors were significant problems in resort towns and northern border areas.

The country does not have a statutory rape law, but it has laws against corruption of a minor, child pornography, and sexual tourism that apply to victims under 18 years of age. For the crimes of selling, distributing, or promoting pornography to a minor, the law stipulates a prison term of six months to five years and a fine of 300 to 500 times the daily minimum wage. For the crime of involving minors in acts of sexual exhibitionism, the law mandates seven to 12 years in prison and a fine of 800 to 2,500 times the daily minimum wage. The production, facilitation, reproduction, distribution, sale, and purchase of child pornography carries a punishment of seven to 12 years in prison and a fine of 800 to 2,000 times the daily minimum wage. Perpetrators who promote, publicize, or facilitate sexual tourism involving minors face seven to 12 years in prison and a fine of 800 to 2,000 times the daily minimum wage. For those involved in sexual tourism who commit a sexual act with a minor, the law requires a 12- to 18-year prison sentence and a fine of 2,000 to 3,000 times the daily minimum wage. The crime of sexual exploitation of a minor carries an eight- to 15-year prison sentence and a fine of 1,000 to 2,500 times the daily minimum wage.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html as well as country-specific information at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

There were no reports of anti-Semitic acts. The Jewish community numbered approximately 50,000 persons.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual Trafficking in Persons Report at www.state.gov/g/tip.

Persons with Disabilities

Although the law prohibits discrimination against persons with physical and mental disabilities in employment, education, access to health care, and the provision of other services, the government did not effectively enforce all these stipulations. Public buildings and facilities in Mexico City did not comply with the law requiring access for persons with disabilities, although the federal government stated that entrances, exits, and hallways in all of its offices were accessible to persons with disabilities. The education system provided special education for approximately 341,000 of an estimated two million students with disabilities; only 45 percent of the country's municipalities provided special education.

In the 2000 census, 1.8 percent of the population reported having a disability, 72.6 percent of whom lived in urban areas. According to the National Commission for Persons with Disabilities, of children with disabilities between the ages of six and 14, 62.6 percent attended school, compared with 91.3 percent for those in the same age range without disabilities. Only 3.6 percent of the overall population with disabilities had finished university; 95.2 percent of all persons with disabilities had access to public or private health care. CNDH received 21 complaints of discrimination against persons with physical disabilities and three complaints of discrimination against persons with mental disabilities.

The secretary of health collaborated with the secretaries of social development, labor, and public education, as well as with the Integral Development of the Family (DIF) and the Office for the Promotion and Social Integration of the Disabled, to protect the rights of persons with disabilities. The government established offices and programs for the social integration of persons with disabilities, including a program to enhance job opportunities and launch an online portal to disseminate information and assistance. One popular and well-known program, spearheaded by the Humanitarian Foundation for Aid for the Handicapped, employed approximately 70 wheelchair users in the Mexico City airport. The program proved highly successful and was expanding across the country.

Nevertheless, in a 2010 study, Disability Rights International found widespread human rights abuses in mental institutions across the country, including lack of access to justice, the use of physical and chemical restraints and lobotomies on patients, and trafficking of children with mental disabilities. According to the Latin American Network of NGOs for Disabled Individuals and their Families, 14 percent of workers with disabilities did not receive a salary and 22.6 percent earned below the minimum wage.

Indigenous People

CNDH and the Secretariat of Indigenous Peoples in Chiapas acknowledged that indigenous communities have long been socially and economically marginalized and subjected to discrimination, particularly in the central and southern regions, where indigenous persons sometimes represented more than one-third of the total state population. In the state of

Chiapas, the NGOs Fray Bartolome de las Casas (FrayBa) and SiPaz argued that indigenous peoples' ability to participate in decisions affecting their lands, cultural traditions, and allocation of natural resources was negligible.

Indigenous groups reported that the country's legal framework neither respected, nor prevented violations of, the property rights of indigenous communities. Communities and NGOs representing indigenous groups reported that the government did not consult indigenous communities adequately when making decisions about development project implementation on indigenous land.

Indigenous persons did not live on autonomous reservations, although some indigenous communities exercised considerable local control over economic, political, and social matters. In Oaxaca State, for example, 70 percent of the 570 municipalities were governed according to the indigenous regime of "usages and customs," which did not follow democratic norms such as the secret ballot, universal suffrage, and political affiliation. These communities applied traditional practices to resolve disputes, chose local officials, and collected taxes without federal or state government interference. While such practices allowed communities to elect officials according to their traditions, usages and customs laws generally excluded women from the political process and often infringed on the rights of women and religious minorities.

A conflict between factions of the Triqui indigenous group in Oaxaca led to the besieging of the town of San Juan Copala, which was blockaded by armed paramilitaries. On April 27, an armed group in Oaxaca attacked and killed two members of a humanitarian aid mission travelling on the road to the town. The delegation, which sought to deliver aid and document human rights violations against the Triquis, included NGO members, human rights defenders, and international human rights observers from Germany, Belgium, Finland, and Italy. Beatriz Alberta Carino, director of the CACTUS organization community radio group, and Jyri Antero Jaakkola, a Finnish observer, were killed during the attack. The incident remained under investigation with no known results at year's end.

The government generally showed respect for the desire of indigenous persons to retain elements of their traditional culture. The law provides protections for indigenous persons.

The law provides for educational instruction in the national language, Spanish, without prejudice to the protection and promotion of indigenous languages. However, many indigenous children spoke only their native languages. In practice education in indigenous languages was limited by the lack of textbooks and teaching materials, as well as the lack of qualified teachers fluent in these languages.

During the year CNDH received 132 complaints about human rights abuses of the indigenous population; by year's end it concluded investigations into 134 complaints and 35 remained pending. Most complaints pertained to a lack of interpreters and discriminatory practices by government officials.

NGOs such as FrayBa and SiPaz reported that state authorities and nongovernmental actors harassed and abused indigenous human rights defenders.

In 2009 the Tlachinollan Mountain Human Rights Center closed one of its offices in Ayutla de los Libres, Guerrero, because of threats and a climate of insecurity toward indigenous rights activists, and the office remained closed during the year.

UNHCR and AI criticized the government for arbitrarily detaining and imprisoning some indigenous members of the OPIM. In 2008 authorities detained and charged OPIM members with the murder of Alejandro Feliciano Garcia, an army informant, in the town of El Camalote, Guerrero. The Tlachinollan Mountain Center for Human Rights defended the five in court and eventually secured the release of all, most recently Raul Hernandez in August.

During the year AI documented cases of intimidation and harassment of OPIM and OFPM indigenous members, including the intimidation of human rights defender Raul Hernandez in Guerrero following his August release from prison.

In October the Inter-American Court of Human Rights ruled on the cases of OPIM members Valentina Rosendo Cantu and Ines Fernandez Ortega, indigenous women whom soldiers allegedly detained arbitrarily and raped in separate incidents in 2002. The Inter-American Court of Human Rights decision ordered the military to compensate the victims and their families, who have complained of harassment and intimidation by soldiers in the area since the court accepted the cases in 2006. In 2008 the brother of Ines Fernandez Ortega was found dead in Ayutla de los Libres, Guerrero, and in August 2009 her daughter was reportedly accosted and threatened by men in Ayutla.

The OHCHR, as well as NGOs AI, SiPaz, and RedTDT, reported that Chiapas-based human rights defender Margarita Martinez and NGO FrayBa received death threats on November 24 in connection with their work on human rights for indigenous groups in Chiapas.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

While society increasingly accepted homosexual conduct, CNDH and the National Center to Prevent and Control HIV/AIDS stated that discrimination persisted. According to the National Center and the Mexican Foundation for Family Planning, societal discrimination based on sexual orientation was common, reflected principally in entertainment media programs and everyday attitudes. Activists organized gay pride marches in cities across the country; the largest, in which 400,000 persons participated, was held in June in Mexico City. In December 2009 Mexico City legalized gay marriage and adoption, which took effect in March. In August the Supreme Court ruled that all 31 states were required to recognize gay marriages conducted in states that permitted it and upheld a law that allows gay couples in the capital to adopt children.

Other Societal Violence or Discrimination

CNDH reported that police, immigration officers, and customs officials violated the rights of undocumented migrants and failed to provide for their safety. In August 72 migrants were kidnapped and killed in Tamaulipas, reportedly by TCO members, provoking the government to implement an interagency plan to address violence against and exploitation of migrants traveling through the country. Another 50 migrants were reportedly kidnapped in Oaxaca in December.

There were no known developments in the 2007 cases of Jose Alejandro Solalinde, a priest and activist for migrant rights, and 18 Central American migrants who were reportedly beaten and detained for seven hours by police officers in Ixtepc, Oaxaca. Solalinde continued to receive threats; in April CNDH and the Inter-American Commission on Human Rights ordered protective measures for the priest and his migrant shelter. In December he reported receiving threats from Zetas and the Mara 13 gangs who threatened to enter the shelter by force to take 15 migrants who had escaped from them earlier that month. Undocumented migrants rarely filed charges in abuse cases because the authorities generally deported such persons who came to their attention. The INM operated 48 detention centers specifically for undocumented migrants with a total capacity of 3,913. CNDH had an office in each of these facilities to monitor compliance for respect of detainee human rights.

In 2008 CNDH issued recommendations to SEMAR and SEDENA for discrimination against military members with HIV. SEDENA accepted the recommendations and reported that the officials involved remained on duty, receiving pay and medical attention; SEMAR did not accept the recommendation and did not take further action.

Section 7 Worker Rights

a. The Right of Association

Federal law provides workers the right to form and join trade unions, and workers exercised this right in practice, but enforcement of this law continued to be weak. Approximately 10 percent of the country's workforce was organized, and many observers noted that a majority of organized workers belonged to unrepresentative unions. According to the National Institute of Statistics, during the year there were approximately 47 million workers in the workforce, with between 15 and 20 million in the formal sector, defined as those paying taxes and receiving benefits from the IMSS. The country's official unemployment rate was an estimated 5 percent, and its underemployment rate was approximately 9 percent, but unofficial estimates for unemployment as well as underemployment were much higher. The youth unemployment rates reached 9.2 percent in September, and the so-called "ni-nis"--youth ages 14 to 25 who neither work nor study--became a serious political discussion. The topic of informal sector employment also generated discussion, with the government estimating that 26 percent of the workforce to be employed in the informal economy (those who do not pay taxes or receive benefits from IMSS). However, private think tanks estimated such informal employment to be 64 percent.

Approximately 10 percent of the formal sector was unionized. By law 20 workers may formally register an independent union. However, administrative procedures for registration remained complex and burdensome, and government labor boards frequently rejected independent union registration applications on technicalities. A new union also must often challenge the existing union, if one exists, for control of the collective bargaining contract. Union organizers from several sectors complained about the overt and usually hostile involvement of the government in their attempts to develop independent unions. Credible reports continued to note the use of officially sanctioned protection contracts, which consisted of an informal agreement whereby the company supported an unrepresentative union (i.e., not chosen democratically by workers) in exchange for labor peace. Exclusion clauses in these protection contracts gave promanagement unions the right to prevent the formation of an authentic union by expelling agitators from the "official" union, thereby obliging the company to fire these individuals. Some fired workers accused unions of harassment and intimidation. The government's general failure to enforce labor and other laws left workers without much recourse with regard to violations of freedom of association by employers or unions, working conditions, or other problems. Workers were reportedly frequently expelled from official unions for trying to organize their colleagues. An international human rights organization also reported that workers who sought to form independent unions risked losing their jobs, as inadequate laws and poor enforcement generally failed to protect them from retaliatory dismissals.

Elections for union leaders were traditionally not secret, despite a 2008 Supreme Court decision requiring their confidentiality. Union managers and officials were usually present with the presiding labor board official when workers openly declared their individual votes, and workers continued to face intimidation in the voting process.

The Sindicato Mexicano de Electricistas (SME) continued to seek legal existence after the Mexican government shut down its employer, Luz y Fuerza del Centro, after it was incorporated into the national power company Comision Federal de Electricidad in October 2009. During the year the SME faced a series of legal setbacks but remained militant. In December the SME held elections in which the de facto leader became the de jure leader. The leadership was granted official government recognition, and the union promised to keep fighting until its workers were employed again as public servants in the electricity industry.

The law provides for the right to strike in both the public and private sector, and workers exercised this right. However, only officially recognized unions may call for a strike. Before a strike may be considered legal, a union must receive approval of a strike notice from the appropriate labor authorities. Independent union activists claim that this "government veto" on strikes gives authorities the power to show favoritism by determining which companies will be protected from strikes. Although few formal strikes actually occurred, informal stoppages of work by both union and nonunionized groups were fairly common. In the reporting period, 11 strikes were launched, and all but one was resolved.

b. The Right to Organize and Bargain Collectively

The law provides for the right to organize and bargain collectively, but the government did not consistently protect this right. Collective bargaining agreements covered approximately 10 percent of workers.

The use of so-called protection contracts by employers continued to expand and was common in all sectors. Such contracts were collective bargaining agreements negotiated between management and a non-representative union. These contracts were often developed prior to the hiring of a single worker at a new job site and managed without direct input from workers. Collective bargaining agreements resulting from protection contracts usually failed to provide workers benefits beyond the legal minimum and impeded the rights of legally recognized independent unions to effectively and legitimately bargain collectively on behalf of workers. Individuals and non-representative union leaders involved in the development of protection contracts took advantage of the lack of awareness of worker rights by the Mexican workforce to prevent workers from achieving more favorable collective contracts and fully exercising their rights to labor protection as defined by law.

In June Grupo Mexico, a large mining company, won a Supreme Court case against the National Mine and Metalworkers Union ("los Mineros") that allowed it to legally end a long-running strike, dissolve the collective contract, and rehire workers at the copper mine in Cananea, Sonora. Grupo Mexico very quickly began clean-up operations and set up a union to represent workers. Miners suspected this union would not be representative, and many feared that the presumed protection union would prevent los Mineros from representing Cananea's workers. In early September violence broke out between police forces protecting the mine and members of los Mineros who were maintaining a protest at the gate. The clash raged in the town of Cananea for just under 24 hours before federal and state police could restore calm. In the aftermath, one contract worker had been shot in the head and was in critical condition, and slightly more than 20 los Mineros members were detained and charged with violence and disturbing the peace. The struggle at Cananea continued to impact workers through the end of the year as lawsuits and labor rights campaigns persisted.

A group of workers at Telefonica's ATENTO call centers launched a campaign to improve their working conditions after several health complaints. They eventually attempted to oust their protection union and form a legitimate union under the auspices of the National Telephone Workers Union. ATENTO fired the principal organizers, who reported harassment and intimidation, but the workers eventually won the right to a vote for their union. The independent union did not win its bid to represent ATENTO workers, but with the support of the National Telephone Workers Union the workers continued to organize and rally support against protection contracts.

At the Johnson Controls Interiors plant in Puebla, several workers complained about health and safety problems. They were supported in their attempts to achieve better working conditions by the Worker Support Center (Centro de Apoyo al Trabajador - CAT), a local NGO. Workers alleged intimidation and violence on the part of the existing protection contract and consequently voted to change to an independent contract. At the end of the year, the independent contract remained pending finalization.

In late December the CAT leader reported that its offices had been burgled and vandalized. Perpetrators stole personnel information, account information, cash, and computers and wrote threatening messages on the walls. Shortly after the break-in, the CAT leader left the country after receiving death threats. The case was submitted to the Inter-American Human Rights Commission.

There are no special laws or exemptions from labor laws in export processing zones.

c. Prohibition of Forced or Compulsory Labor

Although the law prohibits forced or compulsory labor by children and adults, such practices commonly persisted in both the agricultural and industrial sectors. Migrants and children were the most vulnerable to forced labor. Also see the Department of State's annual Trafficking in Persons Report at www.state.gov/g/tip.

d. Prohibition of Child Labor and Minimum Age for Employment

The law protects children from exploitation in the workplace, including a prohibition of forced or compulsory labor; however, the government did not effectively enforce such prohibitions. The law prohibits children under the age of 14 from working and allows those between the ages of 14 and 16 to work limited hours, not at night or in hazardous conditions, and only with parental permission. According to UNICEF and International Labor Organization statistics, 3.6 million (16 percent) children between the ages of five and 14--many of them indigenous--were involved in child labor activities. Approximately 1.5 million child laborers did not attend school.

Child labor was especially prominent in the agriculture sector. According to the government's 2007 national child labor survey, 3.1 million children, ages five to 17, worked with approximately one-third of them in the agricultural production of melons, onions, sugarcane, tobacco, and tomatoes. Child labor in agriculture was most common among migrant and indigenous children. Other sectors with significant child labor included commerce (803,515), services (718,588), manufacturing (391,000), and construction (151,787).

For child trafficking, see the Department of State's annual Trafficking in Persons Report at www.state.gov/g/tip.

The Secretariat of Labor and Social Security (STPS), which is charged with protecting worker rights, carried out child labor inspections and led a number of initiatives to address child labor. The STPS conducts workplace inspections to verify that no child under age 14 is working and that children between ages 14 and 16 are not participating in activities prohibited by federal labor law. The STPS was involved in programs that supported the elimination of such exploitation and the improvement of conditions for working minors. During the year the STPS provided workshops on child labor exploitation and planned to introduce on-line courses on the labor rights of children and adolescents. The STPS also designed a campaign to educate workers and employers about agriculture workers' rights in 26 of the 31 states. The STPS continued to work with global donors to implement programs to combat child labor in the agriculture sector, including in Michoacan, Veracruz, Chiapas, and Sinaloa. The STPS also collaborated with other government secretariats and offices.

In addition the Secretariat for Social Development, the PGR, and the Family Development Institute each has responsibility for enforcement of some aspects of child labor laws or intervention in cases where such laws are violated. The labor inspection process is complicated by complex and outdated divisions between federal and state jurisdictions. Furthermore, child labor inspections were made difficult by the economic need of many children to work for a living. Anecdotal evidence suggested children often colluded with their employers to avoid being removed from the workplace. Government enforcement was reasonably effective at large- and medium-sized companies, especially in the maquila sector and other industries under federal jurisdiction; inadequate at many small companies and in the agriculture and construction sectors; and nearly absent in the informal sector, in which most children worked.

During the year the Secretariat for Social Development and DIF carried out programs to prevent child labor abuses and promote child labor rights, including specific efforts to combat the commercial sexual exploitation of children. Nevertheless, it was not uncommon to find girls under the age of 15 working in prostitution.

e. Acceptable Conditions of Work

By law the National Minimum Wage Commission of the STPS is charged with setting the minimum wage each December for the coming year. During the year the commission increased the minimum wage by 4.85 percent, just under the year's

average inflation rate of 5 percent. The minimum daily wages, determined by zone, were 57.46 pesos (\$4.65) in Zone A (Baja California, Federal District, State of Mexico, and large cities); 55.84 pesos (\$4.52) in Zone B (Sonora, Nuevo Leon, Tamaulipas, Veracruz, and Jalisco); and 54.47 pesos (\$4.41) in Zone C (all other municipalities). Most workers received between one and five times the minimum wage. Metropolitan Autonomous University experts noted that article 90 of the federal labor law states that an individual's salary should be sufficient to provide for the basic needs of the worker and his dependent family, and the minimum wage clearly did not meet that requirement.

The law sets six eight-hour days and 48 hours per week as the legal workweek. Any work over eight hours in a day is considered overtime, for which a worker receives double the hourly wage. After accumulating nine hours of overtime, a worker earns triple the hourly wage; the law prohibits compulsory overtime. There were labor rights disputes filed with labor boards and international labor organizations during the year regarding complaints that workers did not receive overtime pay they were owed. Employers often used the "hours bank" approach--requiring long hours when the workload is heavy and cutting hours when it is light--to avoid compensating workers for overtime.

The law requires employers to observe occupational safety and health regulations, issued jointly by the STPS and the IMSS. Legally mandated joint management and labor committees set standards and are responsible for overseeing workplace standards in plants and offices. Individual employees or unions may complain directly to inspectors or safety and health officials. Workers may remove themselves from hazardous situations without jeopardizing their employment, but in practice this was often not permitted. Plaintiffs may bring complaints before the Federal Labor Board at no cost to themselves. STPS and IMSS officials reported compliance was reasonably good at most large companies.

[Back to Top](#)