

Mexico

President Felipe Calderon has relied heavily on the armed forces to fight drug-related violence and organized crime. While engaging in law enforcement activities, Mexico's armed forces have committed serious human rights violations, including killings, torture, rapes, and arbitrary detentions. Mexico routinely allows the military to investigate itself through a military justice system that leads to impunity for army abuses.

Mexico's criminal justice system is plagued by human rights problems, such as torture and ill-treatment by law enforcement authorities, and routinely fails to adequately prosecute crimes. Increasing violence against journalists who report on organized crime and government corruption has generated a climate of self-censorship in parts of the country.

Impunity for Military Abuses

Mexican soldiers continue to commit egregious abuses while engaged in law enforcement activities. The number of alleged army abuses presented before Mexico's National Human Rights Commission increased six-fold between 2006 and 2008, and reached 559 in the first six months of 2009.

In February 2009, for example, soldiers arbitrarily detained an indigenous man in Oaxaca for six hours, beat him, and subjected him to waterboarding. In March soldiers detained 25 Tijuana municipal police officers at a military base where they repeatedly beat them, administered electric shocks including to their genitals, and asphyxiated them with plastic bags. In August soldiers detained two men in Morelos, threatened them to death, blindfolded, and beat them.

Military authorities routinely assert jurisdiction to investigate and prosecute army abuses. As a result, the vast majority of army abuse cases are never successfully prosecuted. The military justice system lacks the independence necessary to carry out reliable investigations, and its operations suffer from a general absence of transparency. The ability of military prosecutors to investigate army abuses is further undermined by a fear of the army, which inhibits civilian victims and witnesses from providing information to military authorities.

Criminal Justice System

The criminal justice system routinely fails to provide justice to victims of violent crime and human rights violations. The causes of this failure are varied and include corruption, inadequate training and resources, and abusive policing practices without accountability.

Torture remains a widespread problem. One perpetuating factor is the acceptance by some judges of evidence obtained through torture and other mistreatment. Another is the failure to investigate and prosecute most cases of torture.

Over 40 percent of prisoners in Mexico have never been convicted of a crime. Rather, they are held in pretrial detention, often waiting years for trial. The excessive use of pretrial detention contributes to prison overcrowding. Prison inmates are also subject to abuses by guards. Children are often detained in poor conditions in police stations and other institutions, and many juvenile detainees do not have access to educational programs.

In June 2008 Mexico passed a constitutional reform that creates the basis for an adversarial criminal justice system with oral trials, and contains measures that are critical for promoting greater respect for fundamental rights, such as including presumption of innocence in the constitution. Two provisions, however, violate Mexico's obligations under international law. The first allows prosecutors, with judicial authorization, to detain individuals suspected of participating in organized crime for up to 80 days before they are charged with a crime. The second denies judges the power to decide, in cases involving offenses on a prescribed list, whether a defendant should be provisionally released pending and during trial. The government has eight years to implement the reform.

Impunity for “Dirty War” Crimes

During its five-year existence, the Special Prosecutor's Office established in 2001 to investigate and prosecute abuses committed during the country's “dirty war” in the 1960s-1980s made very limited progress. It did not obtain a single criminal conviction. Of the more than 600 “disappearance” cases, it filed charges in 16 and obtained indictments in nine. The office determined the whereabouts of only six “disappeared” individuals (four had been sent to psychiatric institutions and two had been killed in detention).

After Calderon officially closed the office in 2007, the cases were transferred to another, non-specialized unit within the Attorney General's Office, which has not made significant advances in the investigations.

Freedom of Expression and Information

Journalists, particularly those who have investigated drug trafficking or have been critical of state governments, have faced harassment and attack. In July 2009, for example, the badly beaten body of a journalist was found buried near Acapulco, with his hands and feet tied and his head wrapped in tape. Seven Mexican journalists have gone missing since 2005, including five who had investigated links between local officials and organized crime. Such cases have generated a climate of self-censorship in parts of the country.

Since 2007, defamation, libel, and slander are no longer federal criminal offenses. However, criminal defamation laws in the states continue to be excessively restrictive and tend to undermine freedom of expression.

A 2002 federal law on transparency and access to information and a 2007 constitutional reform increased avenues for public scrutiny of the Mexican government. However, progress made in promoting transparency within the federal executive branch has not yet been entirely matched in other branches of government, in autonomous institutions, or at the state level.

Human Rights Defenders

The United Nations has documented 128 instances of violence or intimidation against Mexican human rights defenders since 2006, including 27 in the first half of 2009. The most common method of intimidation has been threats to the life or physical integrity of defenders issued through email, phone calls, or anonymous notes left at workplaces. The list also includes 10 killings. For example, the bodies of two defenders who allegedly had been kidnapped by police in Guerrero in February 2009 were found several days later with visible signs of torture.

Reproductive Rights, Domestic Violence, and Sexual Abuse

Mexican laws do not adequately protect women and girls against domestic violence and sexual abuse. Some provisions contradict international standards, including provisions that define sanctions for some sexual offenses with reference to the “chastity” of the victim, or penalize domestic violence only when the victim has been battered repeatedly. Existing legal protections are often not enforced vigorously. Girls and women who report rape or violence to the authorities are generally met with suspicion, apathy, and disrespect. Victims are thus often reluctant to report crimes and such underreporting undercuts pressure for

necessary legal reforms. This leads to impunity for rampant sexual and domestic violence against women and girls.

In August 2008 the Supreme Court affirmed the constitutionality of a Mexico City law that legalized abortion in the first 12 weeks of pregnancy. However, abortion continues to be criminalized in the rest of Mexico and during 2009 several states attempted to incorporate the right to life of the unborn in their constitutions. Every state allows abortion in certain specific circumstances, including after rape, but authorities often thwart pregnant rape victims' attempt to terminate their imposed pregnancy by treating them dismissively and with hostility.

Labor Rights

Legitimate labor-organizing activity continues to be obstructed by collective bargaining agreements negotiated between management and pro-management unions. These agreements often fail to provide worker benefits beyond the minimums mandated by Mexican legislation. Workers who seek to form independent unions risk losing their jobs, as inadequate laws and poor enforcement generally fail to protect them from retaliatory dismissals.

National Human Rights Commission

Mexico's official human rights institution has provided detailed and authoritative information on specific human rights cases and usefully documented some systemic obstacles to human rights progress. But, despite its broad mandate and immense resources, it has routinely failed to follow up by pressing government institutions to remedy the abuses it has documented and to promote reforms needed to prevent them. In November 2009 the Senate appointed a new president to the Commission for a five-year term.

Key International Actors

The Merida Initiative is a multi-year aid package agreed upon in 2007 through which the United States would provide Mexico \$1.12 billion to address the increasing violence and corruption of heavily armed drug cartels. When authorizing the funds, the US Congress decided that most of the aid for Mexican security forces could be made available immediately, but that 15 percent of most funds would only be available after the US secretary of state reports to Congress that the Mexican government has met four human rights requirements: ensuring that civilian prosecutors and judicial authorities investigate and prosecute federal police and military officials who violate basic rights; consulting

regularly with Mexican civil society organizations regarding the implementation of the Merida Initiative; enforcing the prohibition on the use of testimony obtained through torture or other ill-treatment; and improving the transparency and accountability of police forces.

Unfortunately, the effectiveness of setting these conditions was undermined when in August 2009 the US State Department issued its first report on the Merida human rights requirements, which does not assess whether Mexico met the requirements and does not show that Mexico is ensuring that civilian authorities are investigating army abuses. Congress authorized the release of a portion of the withheld funds but requested additional information that should be included in the next State Department report.

During 2009 the Inter-American Commission on Human Rights sent four cases concerning military abuses in Guerrero to the Inter-American Court, which will issue decisions that are binding on Mexico. The cases involve an enforced disappearance during the “dirty war,” the arbitrary detention and torture of two environmentalists in 1999, and the rape of two indigenous women in 2002.

In 2009 the United Nations Human Rights Council conducted Universal Periodic Review of Mexico. The Mexican government supported most recommendations to improve its human rights practices, but did not accept those questioning its use of military courts to prosecute army abuses.

The United Nations High Commissioner for Human Rights maintains an in-country office that provides valuable documentation of human rights problems and recommendations for addressing them, such as its 2009 report on the situation of human rights defenders in Mexico.