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Mexico: The availability of legal aid (2005 - 2007)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

The Mexican constitution grants defendants in criminal proceedings the right to legal assistance in Chapter 1 (on fundamental rights), Article 20 (addressing criminal procedures), Part A, Paragraph IX, which states the following:

[translation]

From the commencement of proceedings, [the defendant] shall be informed of the rights provided to his benefit by this Constitution and shall have the right to an adequate defence, either by himself, by counsel or by a trusted person. Should he not wish or should he be unable to appoint a counsel for his defense after being required to do so, the judge shall appoint him a public defender (*defensor de oficio*). (Mexico 5 Feb. 1917; see also US 6 Mar. 2003)

The public defender system is governed at the federal level by the Federal Law on Public Defenders (*Ley Federal de Defensoria Publica*) and at the state and Federal District levels by local variants of the same law (Professor 29 Mar. 2007; see also JCSA n.d.). The federal public defender's office (Instituto Federal de Defensoria Publica, IFDP) is responsible for "providing public defense in the federal jurisdiction, thus guaranteeing the right to defense in criminal matters and access to justice through legal guidance, advice and representation for administrative, financial and civil matters" (JCSA n.d., 271). At the state and Federal District levels, the public defender's offices are generally known as "defensorias de oficio" (*ibid.*; UN 2003, 13). According to the Justice Studies Center of the Americas (JSCA), in late 2002 the federal public defender's office had a combined staff of 1,712 employees, of which 686 were attorneys, each working on an average of 250 cases (n.d., 271). In its 2005-2006 annual report, the IFDP notes the addition of 60 federal public defender positions during the period covering 1 June 2005 to 31 May 2006 (Mexico 28 June 2006, 2).

Various international human rights reports have criticized the public defender system for its poor performance (AI 7 Feb. 2007; US 6 Mar. 2007; AMNU Jan. 2007; UN 2003). In particular, public defender's offices are understaffed, and attorneys are generally poorly paid and overworked (*ibid.*; see also US 6 Mar. 2007).

Amnesty International's February 2007 report entitled *Injustice and Impunity: Mexico's Flawed Criminal Justice System* notes that "in many parts of Mexico access to legal counsel is routinely denied or seriously deficient" (AI 7 Feb. 2007). Nevertheless, AI commends the federal efforts to improve the federal public defender system (*ibid.*). Notably, an increase in resources to the IFDP have been earmarked for improving recruitment, training, work conditions and supervision of federal public defenders (*ibid.*). However, while some state governments have undertaken comparable reforms to improve their public defender's offices, "in the majority of states there has not been comparable investment or improvement in the service provided" (*ibid.*).

In January 2007, the Mexican Association for the United Nations (Asociacion Mexicana para las Naciones Unidas, AMNU), with funding from the Mexican federal Ministry of Social Development (Secretaria de Desarrollo Social) and the Swiss government, published a report that examined the justice systems in Chiapas, the Federal District, Durango, Morelos, and Nuevo Leon. The results of this study showed that in two states (Morelos and Durango) and the Federal District there are fewer public defenders than public prosecutors (AMNU Jan. 2007, 49). Particularly, in the Federal District, there are 2.65 public defenders per 100,000 people, while there are 16.58 public prosecutors per 100,000 inhabitants (*ibid.*, 49). Similarly, the study found that public defenders generally receive roughly less than half the salary of public prosecutors (*ibid.*). In the Federal District, public prosecutors are paid a monthly salary of 29,122 Mexican pesos (MXN) [CAD 2,988 (Canada 19 Apr. 2007a)] while public defenders receive MXN 14,506 [CAD 1,488 (*ibid.* 19 Apr. 2007b)] (AMNU Jan. 2007, 49).

Mexican news articles from 2007 corroborate much of the preceding information, reporting that public defenders are assigned [translation] "excessive" workloads (*El Universal* 26 Feb. 2007; *ibid.* 7 Mar. 2007; *Reforma* 5 Mar. 2007), receive meagre salaries (*El Universal* 7 Mar. 2007) and are poorly equipped (*Reforma* 5 Mar. 2007). For example *Reforma* reports that in the Federal District 318 public defenders attended to 46,816 criminal, family and civil law cases in 2006 (5 Mar. 2007). According to *El Universal*, in the Federal District 34 out of every 100

people were not able to access the services of a public defender (26 Feb. 2007). In addition, *Reforma* reports that in 70 percent of criminal cases, public defenders have to work at least two trial hearings at the same time (5 Mar. 2007). A majority of Federal District public defenders must also procure their own office supplies and computers as they receive minimal assistance from the local public defender's office (*Reforma* 5 Mar. 2007).

El Universal reports that federal magistrate and Director General of the IFDP Cesar Esquinca Munoa has documented that public defender salaries differ widely among states as well (7 Mar. 2007). For example, public defenders in Morelos earn a monthly average salary of MXN 3,502 [CAD 359 (Canada 19 Apr. 2007c)] whereas their counterparts in Guanajuato receive MXN 31,892 [CAD 3,272 (ibid. 19 Apr. 2007d)] (*El Universal* 7 Mar. 2007). Additionally, Esquinca Munoa is quoted as saying that in 20 states, public defenders are facing [translation] "high or very high" workloads (ibid.).

In some jurisdictions, nevertheless, public defenders have reportedly made some advances in 2006 and 2007 (Poder Edomex 31 Mar. 2007). For example, the news Web site Poder Mexico reports that working conditions for public defenders are improving in the state of Mexico as salaries have increased by 58 percent and 58 new public defenders have been hired, resulting in a reduced workload per defender (ibid.).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of additional sources consulted in researching this Information Request.

References

Amnesty International (AI). 7 February 2007. *Mexico: Injustice and Impunity - Mexico's Flawed Criminal Justice System*. (AMR 41/001/2007) <<http://web.amnesty.org/library/Index/ENGAMR410012007>> [Accessed 8 Mar. 2007]

Asociacion Mexicana para las Naciones Unidas (AMNU). January 2007. *Barometro local: una silueta del debido proceso penal en Chiapas, Distrito Federal, Durango, Morelos y Nuevo Leon*. <<http://www.cinu.org.mx/prensa/especiales/2007/BarometroLocal/Bar%F3metroLocal.pdf>> [Accessed 10 Apr. 2007]

Canada. 19 April 2007a. Bank of Canada. "Daily Currency Converter." <<http://www.bank-banque-canada.ca/en/rates/converter.html>> [Accessed 19 Apr. 2007]

_____. 19 April 2007b. Bank of Canada. "Daily Currency Converter." <<http://www.bank-banque-canada.ca/en/rates/converter.html>> [Accessed 19 Apr. 2007]

_____. 19 April 2007c. Bank of Canada. "Daily Currency Converter." <<http://www.bank-banque-canada.ca/en/rates/converter.html>> [Accessed 19 Apr. 2007]

_____. 19 April 2007d. Bank of Canada. "Daily Currency Converter." <<http://www.bank-banque-canada.ca/en/rates/converter.html>> [Accessed 19 Apr. 2007]

Justice Studies Center of the Americas (JCSA). N.d. "Mexico." *Report on Judicial Systems in the Americas 2004-2005*. <http://www.cejamerica.org/reporte/pdfing/22-MEXICO_ING.pdf> [Accessed 9 Mar. 2007]

Mexico. 28 June 2006. Instituto Federal de Defensoria Publica (IFDP). *Informe Anual de Labores 2005-2006*. <http://www.ifdp.cjf.gob.mx/docs/informe_anual_2005-2006/INFORME_2005-2006.pdf> [Accessed 8 June 2007]

_____. 5 February 1917 (last amended 29 October 2003). *Constitucion Politica de los Estados Unidos Mexicanos*. <<http://constitucion.gob.mx>> [Accessed 7 June 2007]

Poder Edomex. 31 March 2007. "Incrementa el salario para defensores de oficio." <http://poderedomex.com/includes/pop/nota_imprimir.asp?id=16717> [Accessed 11 Apr. 2007]

Professor of Law, Universidad Iberoamericana, Federal District, Mexico. 29 March 2007. Correspondence.

Reforma [Mexico City]. 5 March 2007. Yascara Lopez. "Sufren Carencias Abogados de Oficio." (Factiva)

United Nations (UN). 2003. Office of the UN High Commissioner for Human Rights (OHCHR). *Diagnostico sobre la situacion de los derechos humanos en Mexico*. <http://www.cinu.org.mx/prensa/especiales/2003/dh_2003/2derechosciviles.pdf> [Accessed 16 Apr. 2007]

United States (US). 6 March 2007. Department of State. "Mexico." *Country Reports on Human Rights Practices for 2006*. <<http://www.state.gov/g/drl/rls/hrrpt/2006/78898.htm>> [Accessed 6 Mar. 2007]

_____. 6 March 2003. Department of Justice. *World Factbook of Criminal Justice Systems*. <<http://www.ojp.usdoj.gov/bjs/pub/ascii/wfcjstm.txt>> [Accessed 9 Mar. 2007]

El Universal [Mexico City]. 7 March 2007. "Las defensorias de oficio en el olvido." (Factiva)

_____. 26 February 2007. Yetlaneci Alcaraz. "Independencia a defensores de oficio, platean panistas." <http://www.eluniversal.com.mx/ciudad/vi_82739.html> [Accessed 8 Mar. 2007]

Additional Sources Consulted

Publications: *Mexican Law*

Internet sites, including: *Excelsior* [Mexico City], Freedom House, Human Rights Watch, Overseas Security Advisory Council (OSAC), Resource Center of the Americas, World News Connection.

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