

Mexico's Diplomatic Asylum Policy

Roberta Lajous*



Octavio Nunez/AE

Mexico's Foreign Relations Ministry.

INTRODUCTION

Mexico was already a stronghold of diplomatic and territorial asylum in the nineteenth century, but even more clearly throughout the twentieth century. Mexican diplomats take enormous pride in the great names associated with our

country's practice of diplomatic asylum: Gilberto Bosques, Luis I. Rodríguez, Vicente Muñiz Arroyo and Gonzalo Martínez Corbalá. The list of individuals and national groups who have benefited from generous protection in Mexican diplomatic missions abroad is very long. It includes Spanish Republicans, Austrian and German anti-fascists, Russian revolutionary ideologues, Guatemalan nationalists, anti-Duvalierist Haitians,

Chilean and Uruguayan socialists, Peronists and anti-Somoza and Salvadoran Farabundo Martí activists. The long list of names includes José Martí, Rómulo Gallegos, César Augusto Sandino, Víctor Raúl Haya de la Torre, Fidel Castro, Alaíde Foppa, Hortensia Bussi de Allende, Leon Trotsky, Luis Cardoza y Aragón, José Gaos, Pablo Neruda, Nicolás Guillén, Luis Buñuel, Ofelia Guilmain and Rigoberta Menchú.

* Director of the Foreign Relations Ministry's Matías Romero Institute of Consular and Diplomatic Studies.



Octavio Naveja/VE

Nobel Prize winner Rigoberta Menchú was exiled in Mexico.

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MEXICO AND DIPLOMATIC ASYLUM

By asylum, we understand “the protection that a state accords an individual who seeks refuge in its territory or in a place outside that territory.”¹ In contrast to territorial asylum, which is granted by a state within its own territory as its sovereign right, diplomatic asylum is that granted in a state’s diplomatic mission to which an individual comes requesting protection. People who fear for their lives for political or ideological reasons go to a diplomatic legation seeking protection when they find themselves amidst political instability or violence, as happens during coups d’etat, insurrections, serious disruptions and revolts. According to experts in international law, “the inviolability of the mission’s residence is the basis for the doctrine of diplomatic asylum.”² The Conventions of Havana (1928), Montevideo (1933) and Caracas (1954) establish the inter-American framework for both diplomatic and territorial asylum.

Mexico was the first country to ratify the First Convention on Asylum, signed

in Havana at the Sixth Inter-American Conference, which established that the right to asylum of so-called “political delinquents” would be respected as long as the laws, conventions or common usages of the country of refuge permitted it as a right or for humanitarian reasons. This instrument, while novel, had certain deficiencies since, as jurist César Sepúlveda said, “in addition to being very brief, it was also very obscure.”³ Later, in 1933, Mexico actively promoted the Convention on Political Asylum at the Seventh Inter-American Conference in Montevideo. This convention introduced a new element that would be a significant legal step forward: the state which granted asylum would decide what “political delinquency” was. According to Sepúlveda, this convention sought “to discipline the practice of diplomatic asylum, not create a body of law for individuals.”⁴ At the Tenth Inter-American Conference in 1954 in Caracas, Mexico made important contributions to the Convention on Diplomatic Asylum. In fact, Mexico’s contributions were the basis for the negotiation of that instru-

ment.⁵ According to Sepúlveda, the Caracas Convention “has the advantage over its predecessors in the sense of not making asylum depend on customs or local laws, but legal, contractual considerations. The state that ratifies it has the duty to admit the practice of diplomatic asylum.”⁶

In promoting the right to asylum, Mexico has had no object other than to protect the life and liberty of all individuals. Its practice has benefited persons persecuted for their ideas or for committing actions which, although they may qualify as political crimes, do not contradict the ethics shared by the world’s nations.

The Foreign Relations Ministry is not only the institution directly responsible for granting diplomatic asylum requested of the Mexican government, but also the first to be interested in disseminating the principles and legal reasons that have led Mexico to play a vitally important role in the protection of a considerable number of people persecuted for political reasons. (And I use the word “vitality” in the sense of its Latin

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Fondo Editorial Gustavo Cassola

Refugees from Franco's Spain.

root, *vitalis*, meaning “of life.”) For Mexico, “the criteria for granting asylum have been based on international human rights, on common law in the Americas and on our solid political institutions, which have won for our country internationally recognized prestige in this area.”⁷

DIPLOMATIC ASYLUM AND THE SPANISH CIVIL WAR

The practice of granting asylum is an outstanding characteristic of our foreign policy. Mexico's support for the Spanish Republic during the Civil War is a memorable episode in the history of our foreign policy.

The defense of the Republic by Narciso Bassols and Isidro Fabela before the League of Nations and our material aid to the Republican struggle were only the beginning of the support, which culminated with the arrival of more than 40,000 Spanish refugees to Mexico.

Between 1936 and 1942, Mexico opened the doors of its embassy in Spain

and its missions in France to grant asylum to every Spanish Republican who requested it.

When Germany attacked France, President Lázaro Cárdenas gave instructions to his representative, Luis I. Rodríguez, who headed up the Mexican legation there, to inform the French government that Mexico was willing to accept all refugees residing in France.

On August 22, 1940, the Franco-Mexican agreement on Spanish refugees was formalized between Mexico and the Vichy government under Marshall Pétain. This agreement benefited not only the Spanish Republicans, but members of the International Brigades and anti-fascist and anti-Nazi fighters. Mexico's consulate in Vichy also gave protection and asylum to dozens of Italians, Austrians, Poles and Jews to whom it gave documents so they could leave France.

This support ended on November 14, 1942, when the Mexican legation was attacked by Nazi troops and the Mexican diplomats taken prisoner and sent to Bad Godesber.

DIPLOMATIC ASYLUM FOR GUATEMALANS

A little known part of our history is the asylum Mexico gave to hundreds of Guatemalans fleeing from the political upheaval that plagued their country between 1944 and 1954.

In 1944, the popular revolts that overthrew the dictator Jorge Ubico, in power since 1931, and the government take-over by his former ally Federico Ponce increased the number of people seeking asylum. This happened again when Ponce's government fell and was replaced by Juan José Arévalo: both leaders were later granted asylum in Mexico.

The Mexican government, true to its tradition, gave asylum to the members of opposing factions, regardless of ideology or political tendency. As Foreign Minister Ezequiel Padilla said about the Guatemalan situation:

Our government's policy on this matter [asylum] is inspired exclusively in broad humanitarian considerations....The idea

is to make certain that men who have not really committed a crime and whose lives may be of use to their homelands do not fall victim to the passions and circumstances of the moment.⁸

In 1951, Colonel Jacobo Arbenz's victory at the polls made things worse instead of better. A large sector of Guatemalan society became radicalized and took a strong anti-communist position, which made for new instances of repression, deportations and requests for asylum.

In 1954, a military coup put an end to Arbenz's reform government and prompted another wave of exiles, among them the deposed president himself. About this question, the Mexican Foreign Ministry's report for 1954 states:

From September 3 on, a total of 318 persons who had sought asylum in Mexico's embassy in Guatemala began arriving in Mexico....On September 9, Colonel Jacobo Arbenz Guzmán, former president of Guatemala, arrived after taking refuge in our embassy. He was accompanied by family members and high government officials.⁹

In the years after Arbenz's overthrow and until the end of 1996 when peace was signed between the Guatemalan government and guerrilla movement, Mexico was the most important destination for thousands of Guatemalan refugees and exiles who made our country their home.

THE DIPLOMATIC EXILES FROM THE SOUTHERN CONE

In the 1960s and 1970s, different political events caused the collapse of insti-

tutional life in the Southern Cone of the Americas. Once again, Mexico implemented its policy of asylum and became a refuge, the land of temporary or definitive exile for thousands. In this period also, our embassies played an outstanding role in protecting those who placed their trust in Mexico.

There were coups d'état, military repression and social polarization in Chile and Uruguay in 1973 and in Argentina in 1976. As a result, many leaders and activists of left social and political organizations, journalists and public officials were forced into clandestinity or to leave their countries to save their lives. One of the ways of trying to leave their countries was to request asylum in the Mexican legations in Santiago, Montevideo and Buenos Aires.¹⁰

While scholars agree that there were particularities for each nation, "Mexico's policy on asylum in the three nations was very similar: absolute respect for constitutional mandates, for foreign policy guidelines and for inter-American norms on asylum."¹¹

In the case of Argentina, the number of exiles was relatively low (about 65), with long stays in the legation in some cases, such as former president Héctor Cámpora, Héctor Pedro Cámpora and Juan Manuel Abal Medina. A sign of the political instability prior to the coup d'état, some of the exiles arrived at the legation long before the actual military take-over on March 24, 1976.¹² The two countries maintained diplomatic relations despite the tensions generated by the slowness in the issue of safe-conduct passes for the Cámporas and Abal Medina.

In the Chilean case, more than 800 exiles sought sanctuary in Mexico's embassy, most of whom were admitted in the days immediately after the Sep-

tember 11, 1973 coup. The presence of such a large number of people and the long, drawn-out process of getting safe-conduct passes for them created enormous pressures in terms of daily living.¹³ This experience has been eloquently narrated in detail in the memoirs written by our ambassador in Chile, Gonzalo Martínez Corbalá.¹⁴

Martínez Corbalá himself says, "The decision of the Mexican embassy to grant asylum to any Chileans and Latin Americans who came to its doors was based on the precepts contained in the Convention [of Caracas of 1954]."¹⁵ He would later add that Mexican diplomats' actions were also based on the fact that "we could not ignore the main value that must rule the relations among individuals, which is the preservation of the lives of one's fellows. Neither could we put to one side Mexico's historic tradition of making our territory the sanctuary for all those seeking freedom and dignity."¹⁶

In the period after the coup, when the situation was the most complex, Martínez Corbalá's opinion was that relations should not be severed "until the enormous problem of having almost 500 exiles under our protection and diplomatic responsibility was solved."¹⁷ After relations between the two countries deteriorated and once pending problems of asylum had been solved, the Mexican government severed diplomatic relations with Chile on November 26, 1974.

Finally, in the Uruguayan case, more than 400 people requested diplomatic asylum at the Mexican legation over a period of several years, with the numbers increasing as military repression rose after the June 27, 1973 coup. In many cases, the Uruguayan government facilitated their departure without recognizing their status as exiles, giving them

special documents in lieu of safe-conduct passes.¹⁸ In this case, diplomatic relations between the two countries remained discreet.

CONCLUSIONS

The occasions on which the Mexican government has protected those persecuted for political reasons by giving them diplomatic asylum undoubtedly constitute some of the most brilliant chapters in the history of Mexico's diplomacy and foreign policy. Taken as a whole, the experiences of the Spaniards, the Guatemalans, the Chileans, Uruguayans and Argentineans, as well as different individuals, show the continuity in the practice of diplomatic asylum throughout the history of Mexican diplomacy. This has both saved the lives of people perse-

cuted for their political beliefs and validated a practice closely associated with Mexico's foreign policy. **NMM**

NOTES

¹ Cecilia Imaz, "El asilo diplomático en la política exterior de México," *Revista Mexicana de Política Exterior* 40-41 (autumn-winter 1993), p. 54.

² Max Sorensen, *Manual de derecho internacional público* (Mexico City: Fondo de Cultura Económica, 1978), p. 399.

³ César Sepúlveda, *Derecho internacional* (Mexico City: Porrúa, 1977), p. 155.

⁴ *Ibid.*, p. 155.

⁵ Luis Miguel Díaz and Guadalupe Rodríguez de Ita, "Bases histórico-jurídicas de la política mexicana de asilo diplomático," Silvia Dutrénit Bielous and Guadalupe Rodríguez de Ita, *Asilo diplomático mexicano en el Cono Sur* (Mexico City: Instituto Mora/Acervo Histórico Diplomático, 1999), p. 75.

⁶ Sepúlveda, *op. cit.*, p. 156.

⁷ Imaz, *op. cit.*, p. 63.

⁸ AHDREM, Exp. II-708-1-(I), "Declaraciones del canciller mexicano a la prensa sobre derecho de asilo" (Mexico City), 27 June 1944.

⁹ "Memoria de la Secretaría de Relaciones Exteriores de enero a diciembre de 1954" (report to the Federal Congress by Foreign Minister Luis Padilla Nervo, printed by Talleres Gráficos de la Nación, 1955), p. 20.

¹⁰ Silvia Dutrénit Bielous and Guadalupe Rodríguez de Ita go into this experience in great detail in their book. *Op. cit.*

¹¹ Guadalupe Rodríguez de Ita, "Experiencias de asilo registradas en las embajadas mexicanas," Dutrénit Bielous and Rodríguez de Ita, *ibid.*, p. 134.

¹² *Ibid.*, pp. 135-137.

¹³ *Ibid.*, pp. 138-144.

¹⁴ Gonzalo Martínez Corbalá, *Instantes de decisión, Chile 1972-1973* (Mexico City: Grijalbo, 1998).

¹⁵ *Ibid.*, p. 202.

¹⁶ *Ibid.*, p. 207.

¹⁷ *Ibid.*, p. 213.

¹⁸ Rodríguez de Ita, *op. cit.*, pp. 144-149.

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