

Human Rights Crisis in Mexico

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Alejandro Bringsas/REUTERS

Human rights activist group Women in Black protests authorities' inaction on femicide in Ciudad Juárez.

The Mexican state is experiencing a severe human rights crisis. Its main symptom is the accumulation of complaints—handled deficiently—about human rights violations committed mostly by different federal and state agencies. This crisis is sharpened by the responsible authorities' incapability or lack of determination to punish offenders and prevent new violations, thus fostering a climate of impunity. As a result, many victims or their families have appealed to international bodies like the Inter-American Commission on Human Rights (IACHR), which has then sent some cases to the Inter-American Court of Human Rights.

On August 30 and 31, 2010, the court added two new decisions against the Mexican state to the ones it had already handed down November 16 and 23, 2009. It is a matter for concern that the reparations dictated by the court in its 2009

decisions had still not been made when the court handed down two more decisions against Mexico for human rights violations. The November 16, 2009 decision found that the Mexican state violated the Inter-American Convention on Prevention, Punishment and Eradication of Violence against Women through omission and negligence in the disappearance and subsequent deaths of Claudia Ivette González (20), Esmeralda Herrera Monreal (15), and Laura Berenice Ramos Monárrez (17) in Ciudad Juárez, Chihuahua. In its August 2010 decision, the same court found that there had also been non-compliance with Article 7 of that same convention, as well as violations of Article 1.1 of the American Convention on Human Rights, and Articles 1, 2, and 6 of the Inter-American Convention to Prevent and Punish Torture.

It should be underlined that the two new decisions once again involve members of the Mexican army as responsible for the rights violated and sanctioned by the court. The court's November 23, 2009 decision, in complete agreement with

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the National Human Rights Commission of Mexico (Recommendation 26/2001), found that Mexican soldiers were responsible for the forced disappearance of Rosendo Radilla Pacheco. Its August 2010 decision found members of the armed forces responsible for the rape of the indigenous women Inés Fernández Ortega and Valentina Rosendo Cantú. In all three cases, the court's decisions dictate that the Mexican state should harmonize Article 57 of the Code of Military Justice with international standards in this matter and with the Inter-American Convention on Human Rights to comply with the guideline that crimes committed by military personnel against civilians should be tried in civil, not military courts.

Mexico's President Felipe Calderón Hinojosa partially complied with this finding when he recently sent the Senate a bill to reform military immunity to remove cases of forced disappearance, torture, or rape in which military personnel is accused and the victims are civilians from the jurisdiction of military tribunals. Clearly, the scope of the bill is insufficient since it leaves in the hands of military justice the crimes of homicide and depriving people of property without due process committed by soldiers against civilians. Given this limitation in the president's bill, Human Rights Watch proposed that Mexico's Congress amend it because, as it stands, it does not put an end to impunity in the cases of abuses by military personnel against civilians.

Domestically, complaints brought before the National Human Rights Commission (CNDH) about the violation of the civilian population's human rights by the Ministry of National Defense (Sedena) have been mounting. As the Sedena itself stated publicly, "This agency reports that during the current administration, as of September 28, 2010, 4 266 complaints have been lodged before the National Human Rights Commission against this ministry, and of these, 62 have resulted in recommendations."¹

In 2009, the federal agency that was the object of the highest number of CNDH recommendations was the Sedena, with 29. So far in 2010, the CNDH has issued 13 recommendations to the Sedena regarding complaints involving the taking of a life, attempted murder, torture, wrongful arrest, and aggressions against journalists. Of these, the most highly publicized has been recommendation 45/2010, issued August 12, regarding the shooting deaths of Javier Francisco Arredondo Verdugo and Jorge Antonio Mercado Alonso, both killed on the Monterrey campus of the Monterrey Technological Institute of Higher Learning (ITESM) during a clash

between members of Mexico's army and presumed members of organized crime. The CNDH made six recommendations on this case to the Minister of Defense: awarding pecuniary compensation to the victims' next of kin; abstaining from altering the scene of the crime; giving military personnel human rights training; collaborating with the CNDH in following up the complaint; collaborating with the relevant prosecutors' offices to follow up the complaint made by the commission itself; and preventing similar acts from happening in the future. In this case, last August, the Sedena accepted implementing the recommendations, saying that it would look into establishing responsibilities regarding evidence tampering.

Undoubtedly, one of the main causes of the increase in complaints about abuses by the Mexican Army against the civilian population is military immunity. But another important cause is President Calderón's decision as supreme commander of the armed forces to keep assigning military personnel to tasks of public security against any and all objections. This

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insistence on militarizing police duties falls in line with a model of public security that has turned out to be quite deficient. Regarding this model, in its *Segundo Informe Especial sobre Seguridad Pública* (Second Special Report on Public Security), the CNDH made the following diagnosis:

It is a matter for concern that the government is fostering multiple government plans and programs disconnected from and uncoordinated with all those responsible for solving the problem; regressive legal reforms are being pushed through; sentences and high budgets and investments in security mechanisms are being proposed, as are the number of government efforts and measures for safeguarding security, ranging from the militarization of police forces to assigning the armed forces public security tasks as a way of dealing with criminals, just to mention a few actions taking place without yet being able to solve the problem. However, the situation of scant institutional ef-

iciency, corruption, and the virtual abandonment the victims of crime find themselves in is a reality that demands public security strategies be reformulated. We must detail the situation prevailing in institutions in the field of public security, which shows how the model applied until now is severely depleted, meaning everything from the tendency of security forces to perform their duties deficiently and beyond their purview and to even joining forces with the criminals themselves.²

As if it were not enough to point out the Mexican government's failed public security strategy, in its contribution to the UN Human Rights Council's 2008 *Universal Periodic Review*, the CNDH itself reports the following human rights violations in Mexico: arbitrary detentions; forced disappearances; unconstitutional blockades; attacks on journalists; an inadequate penitentiary system; violence against women (femicides in Ciudad Juárez); insufficient attention to vulnerable groups like children, the elderly, persons with dis-

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abilities, indigenous communities, and migrants; an increase in human trafficking; and insufficient access of the population to health care, employment, education, and a healthy environment.³

In the face of the enormous challenge to the Mexican state to fulfill its international human rights commitments and its obligation to safeguard them for the Mexican population as a whole, political actors and government representatives need to think beyond the scope of a single administration. One urgent task in this area would consist in fully complying with the federal government's 2008-2012 National Human Rights Program, whose central objectives are to strengthen the human rights perspective in the design of the federal administration's public policies; strengthen the mechanisms for defending and promoting human rights, consolidating a culture of respect and defense of those rights; and "strengthen compliance with international obligations derived from hu-

man rights treaties and legal instruments, promoting them inside the legislative, and judicial branches of government, at a federal, state, and local level."⁴

One factor that goes against achieving these objectives is President Felipe Calderón's ambivalence toward human rights. In a letter to Human Rights Watch's José Miguel Vivanco, the first executive on the one hand affirms his conviction that his administration's foremost premise is the protection of human rights in the fight against organized crime, and, on the other hand, questions the veracity of the denunciations of human rights violations. On the one hand, he affirms his absolute commitment to the defense of human rights, and on the other hand, challenges the public to demonstrate that a single violation has been committed by security forces or the military that has not been sanctioned by the corresponding authorities. As Vivanco concludes, "Announcing the government's commitment to human rights has little value if at the same time you say that human rights violations 'are untrue' or that the authorities simply do not commit abuses."⁵

We can observe a certain inconsistency in the actions of another central stakeholder in the defense of human rights, the Supreme Court. One day, it washes its hands of a case like that of the death of dozens of children in a day-care center in Hermosillo, Sonora, licensed by the Mexican Social Security Institute (IMSS), refusing to find any individuals allegedly responsible, and the next day it orders the liberation of San Salvador Atenco activists, unjustly condemned by State of Mexico courts to sentences of between 30 and 112 years in a maneuver orchestrated by Governor Enrique Peña Nieto to criminalize social protest. Apparently, the court functions better as an appeals court in the defense of human rights (the case of Atenco) than as an investigating body of grave violations of individual guarantees (the case of Hermosillo). Therefore, the latter, actually a function of the public prosecutor, but that it is attributed by Article 97 of the Constitution, should be eliminated.

Lastly, another adverse factor for human rights in Mexico, perhaps the worst of all, should be mentioned: politics, understood as exclusively factional. The Attorney General's Office, for example, behaved factionally when, early on in Felipe Calderón's term, it brought a suit claiming that the Mexico City Federal District's decriminalization of abortion was unconstitutional, in support of the president's National Action Party struggle against the measure. The same office abused its right to order that an individual not leave a certain jurisdiction and/or issue arrest warrants when a year ago it

detained Michoacán state and municipal officials affiliated to the Party of the Democratic Revolution. In recent months, the detainees have been released one by one for lack of evidence. One Michoacán congressional deputy recently reproached Felipe Calderón for “politicizing the justice system” with these arrests.

On the other hand, the Institutional Revolutionary Party deputies close to Governor Enrique Peña Nieto have frozen a bill in the Chamber of Deputies already passed by the Senate that would reform the Constitution on human rights issues. No less scandalous is the joint defense by the Minister of Labor and the Attorney General’s Office of corporate interests over those of workers in the case of the miners buried at the Pasta de Conchos Mine in Coahuila, to save the mine owners from criminal prosecution.

In short, the human rights crisis in Mexico is a crisis of distrust of the Mexican state’s capacity to safeguard its citizens’ fundamental rights. A determining factor in this distrust

is institutional inefficacy, manifested particularly in a high-cost public security policy with negligible results, as well as the partisan bias and inconsistency in the administration of justice. Obviously, to climb out of this crisis, constitutional and legal reforms are needed, as are more effective public policies and, of course, a real commitment by the authorities to the defense and promotion of human rights. **VM**

NOTES

- ¹ <http://www.sedena.gob.mx/index.php/derechos-humanos/quejas-y-recomendaciones>.
- ² <http://www.cndh.org.mx/lacndh/informes/espec/2infSegPublica08/2informeSeguridad08.htm>.
- ³ Comisión Nacional de Derechos Humanos, “Examen periódico universal,” *Nexos* 372 (Mexico City), December 2008, pp. 37-42.
- ⁴ Gobierno Federal, *Programa Nacional de Derechos Humanos 2008-2012* (Mexico City: Secretaría de Gobernación, 2009), p. 18.
- ⁵ “Carta íntegra de HRW al presidente Calderón,” *El Universal* (Mexico City), September 24, 2010.



Year 5, number 1
January-June 2010



NORTEAMÉRICA

ACADEMIC JOURNAL OF CISAN

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NORTEAMÉRICA, *Academic Journal*

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