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**PRODUCED BY:**

**ANDREW A. REDING  
DIRECTOR, NORTH AMERICA PROJECT  
SENIOR FELLOW FOR HEMISPHERIC AFFAIRS  
WORLD POLICY INSTITUTE  
NEW SCHOOL FOR SOCIAL RESEARCH  
65 Fifth Avenue  
NEW YORK, NY 10003**



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NOTE: This paper has been particularly written to address the information needs and issues of concern to U.S. Asylum Officers and other Immigration Officers. As such, it may not be exhaustive in its coverage of human rights issues within the country. To facilitate timely access, certain information may be repeated in several sections of this paper.

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## I. POLITICAL BACKGROUND

Mexican political history has been heavily conditioned by the fact that the country has never experienced a peaceful transition of power between opposing political forces. Though far-reaching economic changes have occurred in times of peace, major political changes at the national level have followed cataclysmic civil wars that have cost hundreds of thousands, if not millions, of lives. There have been three such upheavals: the War of Independence, from 1810 to 1821; the War of Reform against landed conservatives, the Catholic Church, and their French allies, coinciding with Benito Juárez's liberal reforms in the 1850s and 1860s; and the Revolution of 1910-1920, followed by land reform and nationalization of the oil industry.

Though Mexico has held elections for more than a century, these have never, at least at the national level, led to alternation in office<sup>1/</sup>. They have instead served to ratify choices already made by those holding the reins of power in Mexico City. In 1876, following the death of President Benito Juárez, General Porfirio Díaz overthrew Juárez' designated successor. He assumed the presidency the following year, then had himself reelected to consecutive terms spanning a third of a century<sup>2/</sup>. Finally, in 1910, he had to resort to electoral fraud to fend off a strong challenge from Francisco Madero, a reformer who campaigned on the slogan "effective suffrage and no reelection." That fraud was the spark that ignited the Mexican revolution.

Though "effective suffrage and no reelection" became the official motto of Mexican governments in the post-revolutionary era, only the latter half was fully implemented. In 1928, Alvaro Obregón, a revolutionary general who had served as president from 1920 to 1924, tried to circumvent the revolutionary ban on reelection. He was assassinated before he could begin a second term. That posed a dilemma for his political ally, Plutarco Elías Calles, who had served as president during the intervening four years, and could not reassume the presidency without risking chaos. Calles' solution was to form the *Partido Nacional Revolucionario* (National Revolutionary Party, PNR) in 1929 as a vehicle for a shadow presidency. For six years, from 1928 to 1934, Calles ruled indirectly through a

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<sup>1/</sup> "Cuando el voto no era secreto, universal ni directo: Las elecciones en México nunca han dado alternancia al poder," *Reforma* (Mexico City: 21 August 1994), p. D1. In four of Mexico's 31 states - Baja California Norte in 1989, Chihuahua in 1991, and Guanajuato and Jalisco in 1995 - opposition governors were elected for the first time in Mexican history. Guanajuato had been administered by an opposition *interim* governor since 1991.

<sup>2/</sup> Having overthrown Sebastián Lerdo de Tejada on the argument that the latter's reelection was improper, Díaz vacated the presidency for the next period (1880-1884), but then dropped all pretense of adhering to his own rule. Riding, Alan, *Distant Neighbors: A Portrait of the Mexicans* (New York: Alfred Knopf, 1984), p. 39.

succession of puppet presidents<sup>3/</sup> Because he continued to be referred to as *el jefe máximo* (supreme chief), the period is known as *el maximato*.

In 1933, Calles tried to extend his influence by installing yet another protégé as president, but General Lázaro Cárdenas broke with his sponsor after assuming office in 1934. When Calles tried to reassert control in 1936, Cárdenas gave him a one-way plane ticket to the United States<sup>4/</sup>. Cárdenas then reorganized the PNR into the *Partido de la Revolución Mexicana* (Party of the Mexican Revolution, PRM). The PRM was structured in corporatist fashion -- by group as opposed to individual membership -- around sectors representing workers, peasants, civil servants, and the army<sup>5/</sup>. With the PRM as a base, Cárdenas embarked on an ambitious program to implement the social provisions of the Constitution of 1917. He redistributed 12 percent of Mexico's land to peasants and indigenous communities<sup>6/</sup>, created national peasant and labor unions to press for higher wages, and nationalized foreign oil investments. Reacting to these radical changes, conservatives formed the *Partido de Acción Nacional* (National Action Party, PAN) in 1939, which would become Mexico's only important opposition party for the next half century.

Cárdenas also institutionalized the constitutional prohibition on reelection by completely retiring from politics at the conclusion of his term in 1940. Yet two of Cárdenas' actions contributed to the persistence of antidemocratic practices. Like Calles, Cárdenas hand-picked his successor, General Manuel Avila Camacho, then at least tolerated the use of electoral fraud to install him in the presidency. And though he had intended to increase the influence of ordinary Mexicans on government by restructuring the ruling party along corporatist lines, that strategy ended up having the opposite effect under succeeding administrations.

When Miguel Alemán became president in 1946, the party underwent a further transformation. Where Cárdenas' sympathies had been with wage-earners and peasants, Alemán, who was himself an

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<sup>3/</sup> When the second of these presidents, Gen. Pascual Ortiz Rubio, made the mistake of believing he could dismiss ministers without consulting Calles, Calles provided him with a letter of resignation, which he promptly signed. Riding, Alan, *Distant Neighbors: A Portrait of the Mexicans* (New York: Alfred Knopf, 1984), p. 52.

<sup>4/</sup> Riding, Alan, *Distant Neighbors: A Portrait of the Mexicans* (New York: Alfred Knopf, 1984), p. 53.

<sup>5/</sup> The sector representing the army was abolished by Cárdenas' successor, Gen. Manuel Avila Camacho. Riding, Alan, *Distant Neighbors: A Portrait of the Mexicans* (New York: Alfred Knopf, 1984), p. 55-56.

<sup>6/</sup> "This was three times more than had been distributed between 1917 and 1934, and it included more irrigated land - 976,866 hectares - than has been handed out before or since." Riding, Alan, *Distant Neighbors: A Portrait of the Mexicans* (New York: Alfred Knopf, 1984), p. 182.

entrepreneur, was more sympathetic to business owners and managers. Far from wanting to organize the lower classes for social change, Alemán sought to keep them pacified. Corporatism suited the purpose, because just as it could be used to mobilize, it could also be used to immobilize, by subjecting labor and peasant unions to government control. Reflecting the new emphasis on stability, the party was renamed *Partido Revolucionario Institucional* (Institutional Revolutionary Party, PRI)<sup>7/</sup> As with its predecessors the PNR and the PRM, the PRI was organized in vertical fashion from the presidency downward. That meant that unlike political parties developed in democratic societies, the PRI was always more a tool of governance -- more specifically, an extension of presidential authority -- than a membership organization contending for a share of political power.

Though there have been eight presidential elections since the founding of the PRI, and though the constitutional prohibition on reelection has been observed throughout, the aim of developing a more open, democratic system has been frustrated by institutionalization of the *dedazo*, the figurative "tap of the finger" by which each outgoing president designates his successor, in what is known as the *destape* ("unveiling") of the *tapado* ("the hidden favorite"). There has been little pretense of democratic process within the PRI; the outgoing president's choice has always prevailed by acclamation<sup>8/</sup>. The PRI candidate has then confronted rivals from other parties in very unequal contests, with overwhelming advantages in campaign financing, television exposure, and patronage. When these advantages have proven insufficient, the government has often resorted to electoral fraud, as it did to secure the election of Carlos Salinas in the closely contested 1988 presidential election<sup>9/</sup>.

Electoral fraud has, to be sure, been a last resort. Until the debt crisis of the 1980s, the PRI tried to keep as many of the country's political forces as possible under its tent, by an internal process of negotiation, and by dividing the spoils of office. Labor bosses could count on a percentage of governorships and seats in Congress, as could army officers, leaders of peasant unions, and representatives of the business community. The government also subsidized everything from tortillas and subway fares for the poor to electricity rates and communications satellites for businesses. When

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<sup>7/</sup> Levy, Daniel, and Székely, Gabriel, *Mexico: Paradoxes of Stability and Change* (Boulder, CO: Westview Press, 1987), p. 38, 71.

<sup>8/</sup> Freedom House, *Freedom in the World: 1993-1994* (New York: 1994), p. 399. Levy, Daniel, and Székely, Gabriel, *Mexico: Paradoxes of Stability and Change* (Boulder, CO: Westview Press, 1987), p. 50-51.

<sup>9/</sup> Reding, Andrew, "Mexico at a Crossroads: The 1988 Election and Beyond," *World Policy Journal* (New York: World Policy Institute, Vol. 5, No. 3, Fall 1988), p. 615-25.

dissent nevertheless surfaced, the PRI would often try to coopt it by offering leaders government posts or bribes.

By the early 1980s, the simultaneous collapse in oil prices and rise in interest rates made such largesse unsustainable. To keep the country solvent, the government had to slash subsidies and cut back patronage employment. To make payments on the debt, it also had to print money, causing double-digit inflation that sliced the purchasing power of wages in half. The rich could shield themselves and even profit from the economic collapse by buying dollars and taking advantage of lower real wages; the poor could not. The strain was too much, and the PRI split.

In 1986, Cuauhtémoc Cárdenas, son of the former president, concluded his term as governor of the state of Michoacán and launched a campaign to democratize the PRI. With Porfirio Muñoz Ledo, a former PRI president, cabinet minister, and ambassador to the United Nations, Cárdenas formed the *Corriente Democrática* (Democratic Current, CD), whose members pressed the party to hold internal elections and caucuses to select candidates, including the party's presidential nominee. When their efforts failed, they quit the PRI the following year, and formed the *Frente Democrático Nacional* (National Democratic Front, FDN), a coalition of four small parties and dozens of civic organizations.<sup>10/</sup> In 1988, Cárdenas ran for the presidency as candidate of the FDN.

Cárdenas did better than anyone expected. On election night, as early returns showed him with a substantial lead over PRI candidate Carlos Salinas, government officials abruptly cut off public access to the vote-tallying computers.<sup>11/</sup> In the ensuing days, tens of thousands of Cárdenas ballots were found in smoldering heaps along roadsides, floating down rivers, and stuffed in dumpsters.<sup>12/</sup> Tally sheets were found to have been altered by the addition of zeros in the PRI columns. Ten days after the election, the Federal Electoral Commission released official results showing Salinas with just over 50 percent of the vote to 32 percent for Cárdenas and 16 percent for Manuel Clouthier of the PAN. But

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<sup>10/</sup> "The Democratic Current: A New Era in Mexican Politics," *World Policy Journal* (New York: World Policy Institute, Vol. 5, No. 2, Spring 1988), p. 323-366. The article consists of interviews with Cuauhtémoc Cárdenas and Porfirio Muñoz Ledo.

<sup>11/</sup> Reding, Andrew, "Mexico at a Crossroads: The 1988 Election and Beyond," *World Policy Journal* (New York: World Policy Institute, Vol. 5, No. 3, Fall 1988), p. 623. Though the Mexican government at the time denied having turned off access to the vote count, it later admitted to having done so. "Arturo Núñez reconoció: `en 88 optaron por hacer caer el sistema," *Proceso* (Mexico City: No. 923, 11 July 1994), p. 22.

<sup>12/</sup> Reding, Andrew, "Favorite Son: The heir of Mexico's greatest reformer saw his election stolen and his friend murdered - Cuauhtémoc Cárdenas remains the man who would be el Presidente," and "How to Steal an Election: Mexico, 1988," *Mother Jones*, Vol. 13, No. 9, November 1988, p. 34-37, 44-45 - as reported on NEXIS database.

copies of official tally sheets from the 55 percent of polling stations that were covered by opposition poll watchers showed Cárdenas in the lead, and the government refused to make public the tally sheets for the remaining 45 percent.<sup>13/</sup> An independent statistical analysis of the data released by the federal electoral commission suggests Cárdenas won the election with between 41 and 42 percent of the vote, to about 36 percent for Salinas and 22 percent for Clouthier.<sup>14/</sup> The government's only response was to deny opposition requests to reexamine the sealed ballot boxes, which were kept under military guard in the basement of the Chamber of Deputies, and then destroyed in 1991.<sup>15/</sup>

Cárdenas refused to accept the legitimacy of the Salinas presidency. Travelling across Mexico in the period between the election and the inauguration, he led massive protests against electoral fraud. Then in October 1988, as the FDN disbanded into its constituent units, Cárdenas called for creation of a new political party of the moderate left, to pursue the struggle for democracy. It was named the *Partido de la Revolución Democrática* (Party of the Democratic Revolution, PRD), in commemoration of the "democratic revolution" initiated at the polls on July 6, 1988, and that remained to be consummated by vanquishing electoral fraud.<sup>16/</sup>

Salinas took office in December 1988 under a cloud of suspicion over the election results, with every opposition legislator voting to reject his designation as president, and with scores waving burnt

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<sup>13/</sup> Reding, Andrew, "Mexico at a Crossroads: The 1988 Election and Beyond," *World Policy Journal* (New York: World Policy Institute, Vol. 5, No. 3, Fall 1988), p. 616.

<sup>14/</sup> Barberán, José, et al., *Radiografía del Fraude: Análisis de los datos oficiales del 6 de julio* (Mexico City: Editorial Nuestro Tiempo, 1988), p. 144-147. The statisticians found two telltale signs of massive tampering. In place of the single bell-shaped curve that would be expected to describe the distribution of votes obtained by each party, the PRI was found to have two curves: a bell-shaped curve centered around a mean of 36 percent (its probable national average), and a separate spike peaking around an implausible 100 percent. A second diagnostic test revealed the provenance of these "near-unanimous" results. Whereas totals for each of the opposition parties had last digits that occurred with roughly equal frequency, the last digit of PRI totals was 60 percent more likely to be a zero, indicating that the PRI had inflated its totals by appending zeros to its actual vote count.

<sup>15/</sup> "Por mayoría priísta, la Cámara de Diputados condenó a la hoguera a los paquetes electorales de 88," *Proceso* (Mexico City: No. 791, 30 December 1991), p. 16-19.

<sup>16/</sup> Though organizers were able to obtain well in excess of the number of signatures required to form a new party, the PRI-dominated federal electoral commission used procedural delays to hold back recognition of the party. In order to be able to appear on the ballot in the July 1989 state elections in Baja California Norte and Michoacán, the PRD circumvented bureaucratic delays by converting the existing electoral registry of the Mexican Socialist Party (*Partido Mexicano Socialista*, PMS) over to the PRD. The PRD chose as its symbol the Aztec sun, but was prohibited from using the red, green, and white national colors by the federal electoral commission, which reserved the colors for use by the PRI. Reding, Andrew, "Mexico Under Salinas: A Façade of Reform," *World Policy Journal* (World Policy Institute, Vol. 6, No. 3, Fall 1989), p. 694.

ballots. In his inauguration, held behind cordons of soldiers and riot police, he pledged to clean up the electoral process. An electoral reform followed in 1989-1990, but left control of elections securely in the hands of the PRI, undermining the credibility of official electoral results. That led to mass protests following elections in the states of Guanajuato (1991), San Luis Potosí (1991), Tabasco (1991-1992), and Michoacán (1992). With walls of protesters blocking access to the statehouses, government ground to a standstill, forcing the president to ask the PRI governors to step aside.<sup>17/</sup>

The international embarrassment caused by evidence of continuing electoral fraud amid efforts to secure passage of the North American Free Trade Agreement (NAFTA) led to a second federal electoral reform in late 1993. This doubled the number of Senate seats to 128 (four per state) in order to reserve a quarter of the seats for opposition parties, and limited the ruling party to a maximum of 315 of 500 seats in the Chamber of Deputies. Yet it left electoral commissions under the control of the president and his party.<sup>18/</sup> The ink was barely dry before the government faced its next embarrassment, in the December 1993 gubernatorial election in Yucatán. Under cover of a power blackout, electoral officials doctored results in an effort to recover the mayoralty of Mérida, the state capital, from the PAN. Though the government was eventually forced to back down on Mérida, it nonetheless set off extensive protests by inaugurating a PRI governor whose election was likewise tainted by fraud.<sup>19/</sup>

Then on January 1, 1994, Mayan rebels seized several large towns in the southern state of Chiapas. Calling themselves the *Ejército Zapatista de Liberación Nacional* (Zapatista Army of National Liberation, EZLN), they made democracy their central demand, winning widespread sympathy throughout the country. The political shock of the *zapatista* rebellion led to the replacement of the hard-line *Secretario de Gobernación* (Secretary of Government, informally known as minister of the interior) Patrocinio González Garrido with Jorge Carpizo, who began negotiations for further electoral reforms.<sup>20/</sup> Unlike previous negotiations, these included representatives of the PRD as well as the PAN.

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<sup>17/</sup> "Protests Bring Ouster of Third Mexican Governor," *New York Times* (New York: 30 January 1992), p. A12.

<sup>18/</sup> Reding, Andrew, "Upcoming Mexican Election Seen as Travesty of Democracy," *Christian Science Monitor* (Boston: 1 October 1993), p. 18.

<sup>19/</sup> Though the blackout was said to have been caused by the failure of a generator in Chiapas, it only affected strategic portions of the Yucatán. In several municipalities, the numbers of votes cast exceeded the numbers of registered voters by as much as 40 percent. "En Mérida, elección fraudulenta, renuncia inválida, dictamen sin sustento jurídico," *Proceso* (Mexico City: No. 895, 27 December 1993), p. 20-25.

<sup>20/</sup> The *Secretaría de Gobernación* (Secretariat of Government) is the department officially charged with overseeing elections (the Secretary presides over the Federal Electoral Institute) and managing relations between the federal

This led to more substantial reforms, the most important of which was an end to PRI control of the General Council of the Federal Electoral Institute. Though an important advance, the new, more independent council did not convene until June, limiting its ability to influence conditions for the August 21 presidential and congressional elections.

## II. THE 1994 ELECTION

While a substantial improvement over previous federal elections, the 1994 election was neither fully free nor fair.<sup>21/</sup> The PRI had an overwhelming advantage in campaign financing, media exposure, and patronage. The country was festooned with PRI posters, banners, and billboards. In a nation where two-thirds of the population relies on television as their primary source of news, both of the nationwide private television networks (Televisa and Televisión Azteca) did little to conceal their preference for the PRI.<sup>22/</sup> And the *Programa Nacional de Solidaridad* (National Solidarity Program, Pronasol), a program of grants to the poor, was also linked to the PRI, the Pronasol symbol being a variation of the PRI symbol, which itself is based on the Mexican flag. Since the grants are made to communities, and it is easy to determine how communities vote, recipients and would-be recipients were implicitly warned that future allocations would depend on their response on election day.<sup>23/</sup>

There were also some troubling election-day irregularities. The *Alianza Cívica* (Civic Alliance), a nationwide coalition of human rights and pro-democracy organizations, fielded thousands

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government and the states. As such, it is concerned with maintaining domestic order in all but military aspects, including intelligence-gathering and surveillance. These powers, both formal and informal, make the Secretary of Government the second most powerful officeholder after the president.

<sup>21/</sup> "The election was freer than in the past but far from fair." Payne, Douglas, "Ballots, Neo-Strongmen, Narcos, and Impunity," *Freedom Review* (New York: Freedom House, January-February 1995), p. 29. "Mexicans did not exercise their right to vote in complete freedom." Alianza Cívica, *Dictamen Final* (Mexico City: November 1994), p. 2.

<sup>22/</sup> Barry, Tom, ed., *Mexico: A Country Guide* (Albuquerque, NM: The Resource Center, 1992), p. 248. Mexican Academy of Human Rights/Civic Alliance, *The Media and the 1994 Federal Elections in Mexico: A Content Analysis of Television News Coverage of the Political Parties and Presidential Candidates* (Mexico City: 19 May 1994). "Mexican TV Picks Its Political Shots," *New York Times* (New York: 23 July 1994), p. A5.

<sup>23/</sup> "A toda velocidad, en su último jalón electorero, la maquinaria tripartita PRI-Procampo-Pronasol," *Proceso* (Mexico City: No. 925, 25 July 1994), p. 22-29. In its final report, the Civic Alliance concluded that among "the methods used to buy votes for the PRI were the provision of services, public works projects, and welfare; threats to deny employment, wages, concessions, and land titles...for which reason we can state that *Mexicans did not exercise their right to vote in complete freedom.*" Civic Alliance, *Dictamen Final* (Mexico City: November 1994), p. 2. Gardy, Alison, "Mexico's Political Reforms Must Begin in the Streets," *Wall Street Journal* (New York: 18 November 1994), p. A19.

of trained poll-watchers. In more than two-thirds of the polling stations covered, they saw voters with valid photo-ID cards being turned away because their names did not appear on voter lists. This raised concerns about persistence of a technique of electoral fraud known as *asa rasurada*-- the "shaving" of suspected opposition voters from the lists.<sup>24/</sup>

These irregularities were not, however, of such a scale as to affect the outcome of the presidential race, which is determined by plurality, not by majority. Officially, PRI candidate Ernesto Zedillo won 50.17 percent of the vote, PAN candidate Diego Fernández de Cevallos came in second with 26 percent, and PRD candidate Cuauhtémoc Cárdenas came in third with 17 percent. Unlike his predecessor, Zedillo clearly won election to the presidency. Yet, once allowance is made for irregularities, he probably did not win more than 50 percent of the vote cast for the three leading candidates, as reported by the Federal Electoral Institute. As in 1988, the PRI vote was very likely inflated to just a fraction of a percentage point over 50 percent, in order to claim a clear mandate, and justify continued one-party rule. The difference was that in 1994, the extent of PRI vote inflation was much smaller, and did not cast doubt on the outcome of the presidential election.<sup>25/</sup>

The same cannot be said for some congressional elections, nor for the gubernatorial election in Chiapas.<sup>26/</sup> In many parts of the country, the spread between the PRI and its opponents was very narrow. Jalisco is a case in point.<sup>27/</sup> In Guadalajara, the state capital and Mexico's second largest city, the PAN won handily, but in rural areas, where irregularities were common and poll-watchers scarce, the PRI managed to come up with just enough votes to compensate for the PAN lead in the cities and skim to a razor-thin victory, denying the PAN another senatorship.<sup>28/</sup>

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<sup>24/</sup> "La calidad de la jornada electoral del 21 de agosto de 1994," *Informe de Alianza Cívica/Observación 94*, (Mexico City: 20 September 1994), Table 2.1.

<sup>25/</sup> Reding, Andrew, Director of the North America Project of the World Policy Institute at The New School for Social Research, and official observer of the 1994 Mexican elections, invited by the Federal Electoral Institute.

<sup>26/</sup> "Furthermore, these irregularities undoubtedly had an effect on the percentage results obtained by each presidential candidate and an even more serious impact on the distribution of seats in the Congress and Senate, where the balance of power might well have been more favourable to the PAN and the PRD....Moreover, the results of certain elections, such as the PRI's gubernatorial victory in the state of Chiapas, could be overturned." International Centre for Human Rights and Democratic Development, *Report of the Mexico Election Monitoring Commission* (Montreal: October 1994), p. 10.

<sup>27/</sup> The official totals in Jalisco were 1,058,756 for the PRI, 1,012,471 for the PAN, and 167,350 for the PRD.

<sup>28/</sup> In state elections held half a year later, on February 12, 1995, the PAN won control of the governorship, the state congress, and the mayor's office in Guadalajara in a landslide. "Governing Party in Mexico Suffers Big State Defeat,"

As summarized by the U.S. Department of State:

one of the continuing major obstacles to election reform is the deeply entrenched antidemocratic tradition of unchecked power exercised by local bosses ("caciques") over peasants in rural areas. These bosses often exercise control over virtually every aspect of peasants' lives, including how they vote. One NGO that studied the results of the August 21 elections in a remote district found that there were 30 percent more votes for the PRI in polling places where no independent observers were present.<sup>29/</sup>

The August 21, 1994, gubernatorial race in Chiapas was similarly tarnished by widespread irregularities. Officially, PRI candidate Eduardo Robledo won with 50.4 percent of the vote, to 34.9 percent for PRD candidate Amado Avendaño.<sup>30/</sup> Yet observers from the Civic Alliance documented a pattern of widespread vote fraud, the worst of any of the 31 states. Ballot secrecy was violated in two-thirds of the polls observed; there were attempts to influence voters in 45 percent of locations; and in nine percent of the sites, voters were seen casting multiple ballots rolled inside each other like tacos.<sup>31/</sup> In rebel-held areas, on the other hand, where irregularities were reported to be slight, about 70 percent voted for the PRD.<sup>32/</sup>

Unlike the federal elections, where protests were insignificant, tens of thousands of Chiapas residents took to the streets of major towns to insist that Avendaño, not Robledo, was the legitimate governor. Together with the *zapatistas*, they vowed to make the state ungovernable if Robledo were inaugurated. Tensions mounted when the PRI-controlled state congress rejected an appeal from the

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*New York Times* (New York: 14 February 1995), p. A1.

<sup>29/</sup> U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, February 1995), p. 451.

<sup>30/</sup> *Proceso* (Mexico City: No. 930, 29 August 1994), p. 19.

<sup>31/</sup> "At some of the polls in Simojovel, San Juan Cancuc, and Chilón, voters gave their ballots to the officials, who looked at them, folded them, and put them into the boxes. In other polls, party representatives occasionally watched voters as they marked their ballots in the booth. The voters more subject to be watched were indigenous people, even more so if they were women." International Centre for Human Rights and Democratic Development, *Report of the Mexico Election Monitoring Commission* (Montreal: October 1994), p. 8. "La calidad de la jornada electoral del 21 de agosto de 1994," *Informe de Alianza Cívica/Observación 94* (Mexico City: 20 September 1994), Table 5.2.3. "Balance de Alianza Cívica: multitud de microfraudes distribuidos por regiones en el país," *Proceso* (Mexico City: No. 933, 19 September 1994), p. 9.

<sup>32/</sup> Observers noted that 23.43 percent voted for the PRI. *Proceso* (Mexico City: No. 930, 29 August 1994), p. 18.

state's Catholic bishops to hold a public recount, further contributing to suspicions of electoral fraud.<sup>33/</sup> The inauguration of Robledo in December 1994 led to the formation of a parallel government under Amado Avendaño, and to a break in the truce between the army and the *apatista* rebels that in turn unsettled financial markets, contributing to a major devaluation of the peso. Unable to quell citizen protests, Robledo resigned on February 14, 1995, clearing the way for new elections.<sup>34/</sup>

Responding to a series of earlier Mexican elections tainted by irregularities similar to those in Chiapas, the Human Rights Committee of the United Nations concluded:

The Committee has doubts and concerns about the electoral system and practices and the climate of violence in which the most important elections have taken place. It notes that this situation precludes the full guarantee of free choice by all voters and the participation of all citizens in the conduct of public affairs, in particular through freely-chosen representatives, in accordance with Article 25 of the Covenant [the UN Covenant on Civil and Political Rights, which Mexico ratified in 1981].<sup>35/</sup>

### III. STRUCTURE OF GOVERNMENT

From a formal standpoint, the *Estados Unidos Mexicanos* (United Mexican States), as the country is officially known, is a republic that is in many ways modeled after the United States. Mexico is structured as a federal system. Each of its 31 states elects its own governor, legislature, and four federal senators. As in the United States, the federal government consists of a president, congress, and supreme court.

The President is elected to a six-year term by a simple plurality of votes cast, and is constitutionally prohibited from seeking reelection (Art. 83).<sup>36/</sup> The President in turn appoints members of the cabinet, ambassadors, consuls-general, and colonels, generals, and admirals, subject to ratification by the Senate. As in the United States, the President is commander-in-chief of the armed forces (Art. 89). As we shall see, Mexican presidents also exercise a wide range of informal powers that afford them almost dictatorial authority at the federal level, as well as a substantial ability to

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<sup>33/</sup> "Chiapas a punto del estallido," *Proceso* (Mexico City: No. 938, 24 October 1994), p. 17.

<sup>34/</sup> "Mexico's Zedillo Halts Army, Urges Talks," *Miami Herald* (Miami: 15 February 1995), p. 9A.

<sup>35/</sup> UN Human Rights Committee, *Comments of the Human Rights Committee* (Geneva: CCPR/C/79/Add.2, 18 April 1994), p. 3.

<sup>36/</sup> All references to the Mexican Constitution are taken from *Mexicano: ésta es tu constitución* (Mexico City: Cámara de Diputados - Miguel Angel Porrúa, 1994), 405 p.

intervene in the internal affairs of Mexican states.

Congress consists of two chambers: a 128-seat Senate, and a 500-seat Chamber of Deputies. Each federal entity (the 31 states and the Federal District) elects four senators for six-year terms, coinciding with the presidential term of office. Three senate seats go to whichever party wins a plurality, the remaining seat to the runner-up (Art. 56). The country is also split into 300 federal electoral districts, each of which elects one deputy by plurality (Art. 52). Another 200 deputies are elected at-large (Art. 53), with 40 seats in each of five regions apportioned according to the votes received by each party that attains a minimum threshold of 1.5 percent (Art. 54). Deputies are elected to three-year terms, which means that the entire Chamber of Deputies is renewed both in presidential election years and in mid-term elections (Art. 51). Neither senators nor deputies may seek reelection to consecutive terms (Art. 59). When Congress is not in session, a Permanent Commission of 18 senators and 19 deputies is empowered to confirm presidential appointments in lieu of the Senate (Arts. 78 and 79).

The Supreme Court of Justice consists of eleven justices appointed by the President with the approval of two-thirds of the Senate (Art. 96). The justices in turn elect the court's president, who serves for three years, and cannot be reelected to a consecutive term (Art. 97). Under a reform promulgated by President Ernesto Zedillo in early 1995, justices now serve fifteen-year terms, instead of remaining on the bench until mandatory retirement at age 70 (Art. 94). District and circuit court judges, who were previously chosen by the Supreme Court, are now appointed by a six-member *Consejo de la Judicatura Federal* (Council of the Federal Judiciary), consisting of one representative chosen by the President, two by the Senate, and one each by district and circuit court judges; it is chaired by the president of the Supreme Court (Art. 100). New district and circuit court judges are appointed to six-year terms. If reappointed or promoted at the end of this trial period, they gain life tenure (Art. 97).

Despite some superficial resemblances to the governmental structure of the United States, there are also important differences, differences that make the Mexican model highly authoritarian in practice.<sup>37/</sup> Some of these differences are incorporated in the legal framework itself. One is that

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<sup>37/</sup> "The nature of power in Mexico and how it functions do not correspond to the constitution. Since its founding in 1929, the PRI has dominated the state through a top-down, corporatist structure that is authoritarian in nature and held together through cooptation, patronage, corruption and, when all else fails, repression. The formal business of government takes place secretly and with little legal foundation." Freedom House, *Freedom in the World: 1993-1994* (New York: 1994), p. 399.

Mexico has neither a vice-president (Art. 80) nor any lieutenant-governors, even though it elects alternate senators and deputies. Though this makes unforeseen successions more complicated, it reinforces executive power, by confining it to a single individual, and making impeachment almost unthinkable.

On paper, the Mexican Congress has virtually the same powers as the United States Congress. Yet the Congress has never seriously challenged any legislative proposal, budget, or appointment submitted to it by a PRI President. This is in part because the PRI has always held a majority of seats in both houses of Congress -- a majority deliberately inflated by the method of election. This is most obvious in the Senate, where the party that wins a state gets three of its four seats. Thus if the PRI gets 40 percent of the vote, the PAN 35 percent, and the PRD 25 percent, the PRI ends up with 75 percent of the representation, the PAN 25 percent, and the PRD with nothing. Not surprisingly, the PRI emerged from the August 1994 election with a 74 percent majority in the Senate, enough to make confirmation of presidential appointments a mere formality<sup>38/</sup>

A similar, though less pronounced, bias exists in the method of election to the Chamber of Deputies, where winner-take-all districts disproportionately reward the party that wins a plurality. In 1994, for example, the PRI won 274 of 300 such districts, with only 50 percent of the vote. Though the remaining 200 seats are allocated in proportion to the votes received by each party, they do nothing to correct the over-representation of the PRI in the other 300 seats. In 1994, the PRI ended up with 60 percent of the seats, 20 percent more than the support it received at the polls.

Of course, control of Congress by the President's party does not in itself ensure a docile legislature; three other factors do. One is that the only way to become a PRI candidate is to be chosen by party leaders. The more important the position (e.g., a senatorship) the more likely the selection will be made by the president himself. There are no internal party caucuses and no primary elections in which to challenge machine candidates. Once elected, there is also no possibility of reelection. The ban on consecutive terms prevents development of the sort of independent power bases that are a key feature of the relationship between the U.S. Congress and President. Furthermore, the Mexican Congress lacks the committee structure and staffing that enables the U.S. Congress to act as a watchdog on the executive branch. The result is a legislature that has functioned as little more than a rubber stamp for executive authority.

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<sup>38/</sup> The PRI has 95 of 128 seats in the Senate; the PAN has 24, the PRD 9.

To date, the Supreme Court has been no more of a counterweight to the presidency than Congress. Though constitutionally empowered to counter illegal acts of the executive branch, the Court is constrained by the *Fórmula Otero* (Article 107, Sections I & II of the Constitution). Under this provision, any individual whose constitutional rights have been violated may sue for redress (*amparo*,<sup>39/</sup> or "protection"), but a decision in the person's favor has no applicability to other cases. Other individuals in identical circumstances each must file a separate complaint, and even then the court cannot view the two incidents as part of a larger class action. The high court is also barred from acting in cases involving electoral fraud or violations of labor rights, two issues of special sensitivity to the government. Further limiting the possibility of challenges to executive authority is the court's composition. All eleven justices are presidential appointees, subject only to the *pro forma* approval of a Senate where the PRI has an overwhelming majority. District and appeals court judges, until recently appointed by the Supreme Court of Justice, are now chosen by the newly-created *Consejo de la Judicatura Federal*. Their independence remains limited in two ways: first, by a six-year probationary period, then by the ever-present threat of being reassigned to a different part of the country. The result has been a judiciary that has almost invariably behaved as though it were a branch of the executive.<sup>40/</sup>

Similar arrangements, both formal and informal, undermine the federal-state separation of powers. The Constitution describes Mexico as a republic "composed of States that are free and sovereign in all that concerns their internal affairs..." (Art. 40). Yet because the power of states to raise taxes is restricted, state and local governments depend heavily on the federal government for revenue sharing, which severely limits their independence.<sup>41/</sup> Opposition governors and mayors, particularly those who try to enact reforms that threaten the status quo, often have their budgets slashed to the point where they have difficulty maintaining even essential services. For example, after Ciudad Victoria, capital of the northeastern state of Tamaulipas, elected a coalition PAN-PRD municipal government, the PRI-dominated state congress cut its budget from 27 million new pesos in 1992 to 20 million new

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<sup>39/</sup> *Amparo* is an action brought by an individual seeking judicial protection from the unconstitutional actions of government officials.

<sup>40/</sup> Minnesota Advocates for Human Rights, *Derechos Humanos y Poder Judicial en México* (Minneapolis, MN: February 1995), p. 4-12.

<sup>41/</sup> The federal government controls more than 80 percent of public funds; state governments, less than 12 percent; and municipalities about 6 percent. Most municipalities depend on federal and state sources for 80 percent of their funds. Cornelius, Wayne, and Craig, Ann L., *The Mexican Political System in Transition* (San Diego: Center for U.S.-Mexican Studies, 1991), p. 28.

pesos in 1993. By contrast, the municipality of Nuevo Laredo, with roughly the same population, received 150 million new pesos.<sup>42/</sup>

Further compromising the constitutional separation of powers are the informal faculties of the presidency. The PRI holds 27 of 31 governorships and controls 28 of 31 state legislatures. Through the PRI, a vertically-structured party that mandates unwavering loyalty to superiors, the President is able to routinely intervene in state affairs. President Carlos Salinas (1988-1994) exercised that power more than any previous chief executive, removing and appointing governors at will. Technically, he could not fire or appoint any governor, but no PRI governor ever refused a presidential request to submit a resignation, and no PRI-controlled state legislature ever failed to dutifully install as interim governor whomever the President wanted. In one state -- Guanajuato -- President Salinas even compelled the PRI legislative majority to designate an opposition mayor as interim governor.<sup>43/</sup>

Some states have openly repressive laws. One that stands out is Chiapas, whose criminal code specifies that "those who gather tumultuously, though unarmed, to resist authority or interfere with the free exercise of its functions, engage in sedition."<sup>44/</sup> That could be applied to citizens blocking the entrance of a town hall to protest electoral fraud, or to groups of Mayans protesting mistreatment by the police or the failure to honor agrarian reform titles. In all cases, the penalty is two to four years imprisonment, with double time for leaders. The law also empowers the governor to arbitrarily freeze judicial processes and sentences, allowing the accused to go free, subject to the ever-present threat that the governor will reverse himself and revive the trial or sentence at a later date. In effect, this allows the executive wide latitude in controlling its critics and opponents.<sup>45/</sup>

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<sup>42/</sup> "El gobierno priísta de Tamaulipas despoja de ingresos al ayuntamiento de Ciudad Victoria, de oposición," *Proceso* (Mexico City: No. 932, 12 September 1994), p. 29.

<sup>43/</sup> "Mexico: Fraud squad," *The Economist* (London: 7 September 1991), p. 43. The PRI was accused of rigging the August 1991 gubernatorial election against PAN candidate Vicente Fox, a businessman and adversary of President Salinas. In a tacit acknowledgment of Fox's victory, President Salinas instructed the state congress to appoint Carlos Medina, the PAN mayor of León, interim governor.

<sup>44/</sup> Penal Code of Chiapas, Article 222, quoted in Minnesota Advocates for Human Rights, *Codificando Represión: El Código Penal para el Estado de Chiapas* (Minneapolis, MN: December 1994), p. 7.

<sup>45/</sup> Minnesota Advocates for Human Rights, *Codificando Represión: El Código Penal para el Estado de Chiapas* (Minneapolis, MN: December 1994), p. 3-4.

#### IV. PRESIDENT ZEDILLO'S REFORMS

Upon assuming the presidency at the beginning of December 1994, Ernesto Zedillo announced his intention to "take definitive steps to consolidate ourselves as a country of laws."<sup>46/</sup> In an unprecedented move, he named Antonio Lozano, congressional coordinator of the opposition National Action Party (PAN), Attorney General. Several days later, Zedillo announced an overhaul of the judicial system. At the president's request, all 26 justices of the Supreme Court resigned. Then, by constitutional amendment, the number of justices was reduced to eleven. For the first time, the Court was empowered to review the constitutionality of laws, but only when asked to do so by the Attorney General or one-third of the members of the Senate or Chamber of Deputies. A further amendment increased the requirement for confirmation of new justices from a majority to two-thirds of the Senate. This last change made little difference for the time being, with the PRI in control of 74 percent of the seats in the Senate. Yet in order to gain the support of the PAN, Zedillo negotiated a mutually acceptable slate. Left out of the deal was the PRD, whose senators opposed the nominations.<sup>47/</sup>

President Zedillo also proposed reform of Mexico's police forces. A new law would require officials of all states to cooperate in apprehending criminals wanted by other states, and would prohibit the practice of hiring policemen who have criminal records in other states. To guard against abuses by public prosecutors (discussed further on), a new special prosecutor's office would be created to investigate complaints from aggrieved citizens.<sup>48/</sup>

It is unclear how effective these measures will be in practice. Mexico has a long history of enacting legislative initiatives and reforms that are either not implemented, or only partially put into effect. A case in point is legislation prohibiting torture. Seven years after the enactment of the 1986 Federal Law to Prevent and Punish Torture, Amnesty International was still describing torture as endemic in Mexico.<sup>49/</sup> The present reforms will therefore have to be carefully monitored to determine

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<sup>46/</sup> "Mexico's New Leader Calls for the Overhaul of the Justice System," *New York Times* (New York: 7 December 1994), p. A4.

<sup>47/</sup> "PRI y PAN eligieron a los ministros de la Suprema Corte: Urge reformar la reforma judicial, coinciden destacados analistas," *Proceso* (Mexico City: No. 952, 30 January 1995), p. 44-45.

<sup>48/</sup> "Zedillo's First Project: Reform Nation's Corrupt Police, Justice System," *Miami Herald* (Miami: 7 December 1994), p. 13A. "Mexico's New Leader Calls for the Overhaul of the Justice System," *New York Times* (New York: 7 December 1994), p. A4.

<sup>49/</sup> Amnesty International, *Mexico: The Persistence of Torture and Impunity* (London: June 1993), 27 p.

the degree to which they are implemented, and the extent to which they actually reduce violations of basic human rights.

## V. CONSTITUTIONAL GUARANTEES

On paper, Mexico offers some of the broadest and most comprehensive guarantees of human rights to be found anywhere, although many are seriously abused. These rights fall into two categories, each with a different source. Civil and political rights (Arts. 1-2 and 5-24 of the Constitution) first appeared in the Constitution of 1857, as the outcome of the victory of liberals under Benito Juárez over conservative landholders and the Catholic Church. Social and economic rights, particularly those guaranteeing access to land (Art. 27) and mandating fair treatment of labor (Art. 123), were a product of the Mexican Revolution of 1910, and were incorporated into the Constitution of 1917, the first constitution anywhere to recognize such rights. As human rights monitors have documented, however, many of these rights are frequently violated.<sup>50/</sup>

### A. Civil and Political Rights

Abuses of civil and political rights are widespread, despite generous legal guarantees. The Constitution provides for freedom of expression (Art. 6), freedom of the press (Art. 7), the right of petition (Art. 8), freedom of association (Art. 9), freedom of movement (Art. 11), and freedom of religion (Art. 24). As in the U.S., no one may be deprived of life, liberty, or property without due process of law (Art. 14). Authorities may not legally conduct searches, seizures, or detentions without a written warrant issued by a judge and founded on probable cause. Anyone who is arrested is to be brought before a judge as soon as possible, but within an outer limit of 48 hours, or 96 hours in the case of organized crime (Art. 16). The judge then has another 24 hours in which to either set bail or order the imprisonment of the detainee pending trial (Art. 19). Maltreatment of prisoners is prohibited, as are incommunicado detention, intimidation, and torture. Confessions made to anyone but a prosecutor in the *Ministerio Público* (Public Ministry -- equivalent to the U.S. Department of Justice) or a judge, or in the absence of the defendant's attorney, are legally inadmissible as evidence (Art. 20). Defendants must be informed of the charges against them within 48 hours of being brought before a

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<sup>50/</sup> Freedom House, *Freedom in the World: 1993-1994* (New York: 1994), p. 401. Amnesty International, *Amnesty International Report 1994* (London: 1995), p. 210. Human Rights Watch, *Human Rights Watch World Report 1994* (New York: December 1994), p. 115.

judge (Art. 20). They have a right to counsel, and to a speedy, complete, and fair trial (Art. 17). The trial is ordinarily by judge, but must be by jury in the case of journalists accused of compromising national security (Art. 20).

Though Mexicans move around freely, and frequently exercise their right of petition, other civil and political rights are subject to varying degrees of abuse. In general, citizens are free to worship as they choose. As in the United States, the Mexican Constitution mandates a separation of church and state. But in some rural regions, particularly among indigenous peoples, local PRI bosses known as *caciques* ("chieftains") have used religion as a cover to repress converts to evangelical Protestant denominations who call into question their arbitrary rule.<sup>51/</sup>

Similarly, though there are no overt limitations on freedom of expression, workers who belong to PRI-controlled unions are often subjected to violent repression and dismissal from their jobs for publicly disagreeing with their leadership. In the context of one-party rule, overt criticisms can also lead to denial or termination of anything from taxi licenses to agrarian reform titles to government grants for one's community. Though Mexicans are also generally free to form associations of their own choosing, leaders and members of organizations that are seen as threatening to the interests of the government and its allies are often subjected to harassment, ranging from death threats to arbitrary arrest, imprisonment, torture, and sometimes even murder. Wage-earners who try to form independent unions are an extreme case. With rare exceptions, registration requirements prevent the establishment of independent unions, effectively denying a large segment of the population its right to freedom of association.<sup>52/</sup>

Freedom of the press is likewise undermined by government manipulation. Formally speaking, Mexico has a free press. Most of the published and broadcast media are privately owned. Newspapers are the most open of the media, with over a dozen major dailies representing all major currents of political opinion. Yet the news is distorted in subtle ways. One is the insertion of *acetillas*, columns prepared by the government but disguised as ordinary news. Some newspapers, among them *Reforma*,

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<sup>51/</sup> A case in point is the municipality of San Juan Chamula, in Chiapas, where PRI *caciques* have evicted - and sometimes murdered - Chamulas (a branch of the Mayan peoples) who convert to Protestantism, and refuse to take part in ceremonies that require the consumption of large quantities of alcohol and soft drinks whose concessions are held by the *caciques*. Minnesota Advocate for Human Rights, *Conquest Continued: Disregard for Human and Indigenous Rights in the Mexican State of Chiapas* (Minneapolis, MN: October 1992), p. 52-53.

<sup>52/</sup> Lawyers Committee for Human Rights, "Mexico," *Critique: Review of the U.S. Department of State's Country Reports on Human Rights Practices for 1993* (New York: 1994), p. 244. Freedom House, *Freedom in the World: 1993-1994* (New York: 1994), p. 402.

*El Norte*, and *El Financiera*, assert their independence by either refusing to publish *gacetillas* or by identifying them as paid insertions. Another, *La Jornada*, sets them in italics.<sup>53/</sup> But most major newspapers simply camouflage them as regular news, a practice arguably worse than censorship because it is less detectable.

Another method of influencing the news is known as *el sobre*, in reference to the envelope stuffed with cash that is given to reporters who publish stories favorable to the government. Most Mexican journalists are poorly paid, making the opportunity to supplement their earnings almost irresistible. To influence editors, on the other hand, the federal and state governments purchase large amounts of advertising, in what amounts to a hidden subsidy. Since many publications could not survive without the advertising, the implicit threat of having it withdrawn keeps many editors from venturing into sensitive areas.<sup>54/</sup>

In November 1991, Jesús Cantú, editor of *El Porvenir* of Monterrey, was forced to step down after the federal government terminated its advertising contracts with the newspaper and declined to accredit its reporters. Earlier, in May 1989, Otto Granados, President Salinas' press secretary, had warned Cantú to show respect for the president and the presidency, and expressed irritation about an editorial criticizing the president for his failure to respect legal forms in the arrest of Oil Workers Union boss Joaquín Hernández Galicia ("La Quina"), and pressing for genuine reform of the union.<sup>55/</sup>

Despite such abuses, the print media are far more open than the broadcast media. This is because only about two percent of Mexicans read newspapers, whereas about two out of three get their news from television.<sup>56/</sup> Like the print media, almost all television is privately owned. Yet one network -- *Televisa* -- has a near monopoly, limited only by the market share of its only significant competitor,

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<sup>53/</sup> Saenger, Ellen, *The Press and the Perfect Dictatorship: An Investigation of Press Freedoms in Mexico* (Toronto: Canadian Committee to Protect Journalists/P.E.N. International, 1991-92), p. 6.

<sup>54/</sup> "The Government's control of a significant advertising budget and its ability to reward favored journalists by providing them access to officials were used to discourage unfavorable reports. A number of journalists depended upon receipt of under-the-table payments from the often public entities they covered to supplement low wages." U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1993* (Washington DC: U.S. Government Printing Office, February 1994), p. 493.

<sup>55/</sup> "Caso de *El Porvenir*," *Proceso* (Mexico City: No. 787, 2 December 1991), p. 28-29.

<sup>56/</sup> Saenger, Ellen, *The Press and the Perfect Dictatorship: An Investigation of Press Freedoms in Mexico* (Toronto: Canadian Committee to Protect Journalists/P.E.N. International, 1991-92), p. 6. Levy, Daniel, and Székely, Gabriel, *Mexico: Paradoxes of Stability and Change* (Boulder, CO: Westview Press, 1987), p. 94.

Televisión Azteca. Both are run by PRI loyalists, ensuring news coverage favorable to the ruling party. Here more than anywhere else, the government achieves effective control without the public relations and financial costs of outright ownership.

Perhaps the worst violations of civil and political rights are those involving personal security. As documented by both Mexican and international human rights organizations, arbitrary arrest and torture are endemic in Mexico.<sup>57/</sup> Police seldom comply with the formality of seeking a warrant before making an arrest. It is commonplace, moreover, for political opponents to be charged with ordinary crimes as a means of repression, as in the case of the PRD mayor of Aguililla, Michoacán, who was falsely charged with participating in drug trafficking.<sup>58/</sup> The charges were dropped seven months later, after the *Comisión Nacional de Derechos Humanos* (National Human Rights Commission, CNDH) concluded they should never have been filed in the first place.<sup>59/</sup>

Amnesty International has reported that (in the cases that have come to its attention) over 80 percent of those detained on all charges describe being beaten or tortured.<sup>60/</sup> So prevalent is the use of torture that police have developed dozens of particular methods, spawning a rich but grisly vocabulary. One of the more notorious is the *tehuacanaza*, named after Mexico's best known brand of sparkling water. In this technique, police force carbonated water up the nose of the victim. A particularly nasty variant adds jalapeño peppers. In *la bolsita*, torturers place a plastic bag over the victims' heads, making them suffocate. *Pozole*, derived from the Spanish for "well," consists of forcible submersion of

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<sup>57/</sup> Human Rights Watch, *Human Rights in Mexico: A Policy of Impunity* (New York: June 1990), 88 p. Human Rights Watch, *Unceasing Abuses: Human Rights in Mexico One Year after the Introduction of Reforms* (New York: September 1991), 35 p. Centro Binacional de Derechos Humanos, *La Tortura: Una Práctica Institucionalizada en México* (Tijuana: 1991). Amnesty International, *Mexico: The Persistence of Torture and Impunity* (London: June 1993), 27 p.

<sup>58/</sup> Reding, Andrew, "Taking Away City Hall: Reform Brings Reprisal in a Mexican Town," *Texas Observer* (Austin, TX: Vol. 82, No. 18, 16 September 1990), p. 9-10. Human Rights Watch, *Human Rights in Mexico: A Policy of Impunity* (New York: June 1990), p. 25-27.

<sup>59/</sup> "El alcalde de Aguililla acusa a Coello Trejo de delincuente," *Proceso* (Mexico City: No. 737, 17 December 1990), p. 14.

<sup>60/</sup> "Information available to Amnesty International from local sources in Mexico suggests that at least 80 percent of all detainees are tortured. Victims include people detained for alleged criminal offenses as well as those detained as a result of their real or imputed political activities." "Statement of Rona Weitz, Deputy Director, Washington Office, Amnesty International, USA," *Current Developments in Mexico, Hearing before the Subcommittee on Human Rights and International Organizations, U.S. House of Representatives* (Washington, D.C.: U.S. Government Printing Office, 12 September 1990), p. 32.

the head in a tank of water. *Culatazos* are beatings by rifle-butt. Other commonly administered forms of torture include electric shocks, particularly to the tongue, ears, and genitals; mock executions; open-handed slapping of the ears, damaging hearing; extended exposure to cold; denial of food and water; sleep deprivation; and recruiting other inmates to beat uncooperative prisoners.<sup>61/</sup>

In almost all cases, the aim of torture is to compel the accused to sign a confession. Sometimes the alleged crime is a trumped-up charge, a cover for repression of adversaries of local, state, or federal authorities; sometimes it is invented to extort money from hapless victims. At other times the crime is real, but the police are more interested in securing a quick conviction than in conducting a painstaking investigation to identify the guilty.<sup>62/</sup> Regardless of the particulars, the signed confession usually seals the case. That is because Mexican jurisprudence gives greater weight to an initial confession than a subsequent retraction, and because in accusations of torture the burden of proof falls on the victim.<sup>63/</sup>

By law, none of this should happen. Besides the Constitution, torture is forbidden by the Federal Law to Prevent and Punish Torture, promulgated in 1986 and revised in 1991. The latest reforms, enacted in January 1992, increase the penalty for torture to as much as 12 years imprisonment, and provide for compensation to victims.<sup>64/</sup> Mexico has also ratified the United Nations Convention Against Torture.

Why then the persistence of torture? There are two main reasons. One consists of deficiencies in the legal structure itself. The law allows the police up to two days to bring a detainee before a judge. Though defendants have a right to legal counsel, most Mexicans cannot afford a private attorney, and a public defender is assigned only once the judge enters the case. Moreover, the Constitution allows confessions to be made either to a prosecutor in the *Ministerio Público* or to a judge. That means the prosecutor, who is in charge of the judicial police, and has a vested interest in convicting the accused,

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<sup>61/</sup> In *La Tortura: Una Práctica Institucionalizada en México* (Tijuana: 1991), p. 8-10, the Binational Human Rights Commission listed 50 forms of torture described in interviews with 158 inmates of the state prison in Tijuana.

<sup>62/</sup> "Poorly trained and equipped to investigate crimes, police officers continued to attempt to solve crimes by rounding up likely suspects and then exacting confessions from them. Photographs of detainees with black-eyed, swollen faces still appear in the local press." U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, February 1995), p. 445.

<sup>63/</sup> Amnesty International, *Mexico: The Persistence of Torture and Impunity* (London: June 1993), p. 3-4. Minnesota Lawyers International Human Rights Committee, *Paper Protection: Human Rights Violations and the Mexican Criminal Justice System* (Minneapolis, MN: July 1990), p. 22-24.

<sup>64/</sup> Amnesty International, *Mexico: The Persistence of Torture and Impunity* (London: June 1993), p. 2.

has up to two days in which to secure a confession. The temptation to force a confession through torture is therefore built into the system.

The other half of the problem is impunity. This applies both to arrests made without warrants, and to torture. With few exceptions, the worst punishment violators have faced is suspension or dismissal, which usually occurs only after publicity creates a public embarrassment. Imprisonment for false arrest or torture is rare. According to the U.S. Department of State,

[t]he authorities punish few officials for torture, which continues to occur mainly because confessions are the primary evidence in many criminal convictions. The CNDH reported that in the period from May 1993 to April 1994, the authorities brought 53 cases against officials for the crime of torture; in 13 cases they declined to execute the arrest warrant, and judges denied or canceled the arrest order in another 25 cases.<sup>65/</sup>

In November 1992, the United Nations Committee Against Torture criticized Mexico for its failure to enforce its own laws, and took the unusual step of asking it to provide evidence, within a period of eighteen months, of "punishment of those responsible for acts of torture."<sup>66/</sup> In April 1994, the UN Human Rights Committee stated that it was

disturbed by the large number of complaints concerning acts of torture or arbitrary detention when prosecution and sentencing of the guilty parties occurs very infrequently and falls far short of the recommendations of the National Human Rights Commission of Mexico, which has condemned these acts. Similarly, enforced or involuntary disappearances and extrajudicial executions are not systematically followed by investigations in which the perpetrators are identified, brought to justice and punished and the victims compensated. Lastly, the conditions in prison and other detention centres and the slowness of judicial procedures continue to be a major cause for concern.<sup>67/</sup>

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<sup>65/</sup> U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, February 1995), p. 445-446.

<sup>66/</sup> "...the Committee notes with deep concern that, even according to official sources, an extremely large number of acts of torture of all kinds are perpetrated in the country despite the existence of a legal and administrative system designed to prevent and punish them." UN Committee Against Torture, *Ninth Session, summary record of the third part (public) of the 131st meeting* (Geneva: CAT/C/SR.131/Add.2, 17 November 1992), p. 2.

<sup>67/</sup> UN Committee on Human Rights, *Comments of the Human Rights Committee*, Geneva: CCPR/C/79/Add.32, 18 April 1994), p. 2-3.

## **B. Economic, Social and Cultural Rights**

Unlike the United States, where such economic and social rights as education and social security are the product of ordinary legislation, Mexico recognizes these and other rights in its Constitution. The two most important sections dealing with such rights are Article 27, which guarantees access to land by peasants and indigenous communities, and Article 123, which secures adequate pay and working conditions for wage-earners. The two articles have been essential to maintaining social peace in the post-revolutionary era, but uneven enforcement has also made them a source of continuing conflict, particularly at the regional and local level.

### **1. Agrarian Reform**

Article 27 is concerned with the relationship between land, water, and other natural resources on the one hand, and people on the other. Recognizing that the distribution and use of natural resources has far-reaching social and ecological implications, it subjects private property to whatever conditions are necessary to ensure productivity, "an equitable distribution of the public wealth, conservation, balanced development, and the improvement of rural and urban standards of living." Natural resources used for energy, including oil, coal, and the generation of electricity, are nationalized.

In the case of land used for agriculture, a central objective is to prohibit the existence of *latifundios*, vast plantations that monopolize fertile land, creating an unstable rural social structure of poverty and peonage. To this end, Article 27 originally recognized three types of land holdings: family farms; *ejidos*, or communally-owned lands; and the traditional land holdings of indigenous communities. Farms can encompass no more than 100 hectares (247 acres, or 1 km<sup>2</sup>) of irrigated or prime agricultural land, and no more than 800 hectares of arid, mountainous, or wooded land; orchards or coffee groves no more than 300 hectares (Art. 27, Section XV).

In 1992, President Salinas amended Article 27 to enable agricultural corporations to own land. These are allowed to multiply the limits applied to family farms by the number of stockholders, subject to an overall limit of 25 times the limits applicable to individual family farms (Art. 27, Section IV). The changes also included provisions enabling members of *ejidos* to rent their land to outsiders, to engage in joint ventures with outside investors, and to buy and sell parcels among themselves, subject to the usual limitations on the size of family farms (Art. 27, Section VII). In either case, the reforms were intended to modernize agriculture, bringing it into greater conformity with practices in the U.S. and Canada, in preparation for the reduction and removal of tariff barriers under the North American

Free Trade Agreement (NAFTA).

In an effort to reduce conflicts resulting from the uncertainty of land tenure, Salinas also removed Section X of Article 27, which provided for redistribution of land to dispossessed communities. By thus ending land reform, however, the PRI leadership angered indigenous and other peasant communities that were not previously consulted, and who already were nursing serious grievances with local power elites. These grievances contributed to the *zapatista* insurrection among the Mayans of Chiapas in January 1994.<sup>68/</sup>

Throughout rural Mexico, but particularly in the southern states, large numbers of peasants and indigenous peoples feel frustrated by the failure of the Mexican government to enforce its own land reform decrees. It is not uncommon for rural Mexicans to display copies of presidential orders signed as much as half a century ago that have yet to be enforced. The problem is that the poor have neither the political clout nor the legal resources to confront wealthy landholders. The latter resort to writs of *amparo*<sup>69/</sup> (protection) to block the execution of land reform decrees. Another method used to forestall land reform is to subdivide large land holdings, registering legal-sized parcels in the names of friends and relatives, but continuing to operate the *latifundio* as a single holding.<sup>70/</sup> When frustrated peasants respond by squatting on the lands in dispute, the well-connected landholders either prevail on the governor to dispatch police or troops, or hire private gunmen. Peasants are frequently killed in such disputes, in part to terrorize others, and the murderers are almost never brought to justice. Such abuses, which have been particularly pronounced in Chiapas, have resulted in widespread support for the *zapatista* insurrection, both to recover land and gain protection from hired gunmen.

## 2. Protections for Wage-Earners

Where Article 27 purports to ensure a decent living to rural Mexicans, Article 123 is its urban and industrial counterpart. Likewise a product of the Revolution of 1910, it aims to guarantee wage-earners adequate incomes and working conditions. Though impressive on paper, many of its provisions

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<sup>68/</sup> Reding, Andrew, "Chiapas Is Mexico: The Imperative of Political Reform," *World Policy Journal* (New York: World Policy Institute, Vol. 11, No. 1, Spring 1994), p. 15-16.

<sup>69/</sup> *Amparo* is an action brought by an individual seeking judicial protection from the unconstitutional actions of government officials.

<sup>70/</sup> Minnesota Advocates for Human Rights, *Conquest Continued: Disregard for Human and Indigenous Rights in the Mexican State of Chiapas* (Minneapolis, MN: October 1992), p. 6.

have not been fully carried out. Article 123 sets an eight-hour workday, with double pay for overtime (Sections A.1 and A.11); requires equal pay for equal work (Section A.7), and paid maternity leave (Section A.5); and forbids labor by children under 14 (Section A.3<sup>71/</sup>). It provides for setting minimum wages adequate to satisfy the normal needs of a family (Section A.6). It gives workers a right to participate in ownership of the companies they work for, through distribution of shares of stock, though without participating in management (Section A.9). It mandates that employers ensure safe and healthy working conditions, and holds them financially responsible for industrial accidents or ailments (Sections A.15 and A.14). It also requires employers to contribute to a social security program and to a national fund for the construction of low-cost housing for workers (Sections A.29 and A.12). A parallel, though even more generous, set of guarantees applies to government employees (Article 123, Section B<sup>72/</sup>

Workers have the right to organize unions, and to go on strike (Sections A.16 and A.17). Strikes are illegal only under certain conditions in time of war, or when a majority of strikers engage in violent actions against persons or property (Section A.18). Employers may not fire workers for their participation in a union or in a valid strike, or for any reason other than just cause. Violations entitle dismissed workers to a choice of reinstatement or three months' wages (Section A.22). Conflicts between labor and management are to be brought before the *Juntas Federales de Conciliación y Arbitraje* (Federal Arbitration and Conciliation Boards, JFCA), consisting of equal numbers of representatives of employers and labor unions, and a representative of the government (Section A.20). If an employer declines to accept the verdict of a Federal Arbitration and Conciliation Board, the labor contract is terminated and the employer must provide workers with three months' pay, in addition to any other penalties resulting from the case. If the workers refuse to accept a verdict, the labor contract is terminated and the employer is free to hire replacements (Section A.21).

Nominally, these are among the most generous labor provisions anywhere. In practice, however, the rights of workers are circumscribed by the government's control of organized labor. Mexico's largest labor confederation -- the *Central de Trabajadores Mexicanos* (CTM), which includes the Oil Workers Union -- is an integral part of the ruling Institutional Revolutionary Party (PRI). Other

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<sup>71/</sup> "The constitutional provision for equal pay for equal work has never been enforced." U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1993* (Washington, D.C.: U.S. Government Printing Office, February 1994), p. 497.

<sup>72/</sup> For example, government workers have a right to 20 days of paid vacation (section B.3), and day care for their children (section B.11.c).

large unions, notably the Telephone Workers Union and the Electrical Workers Union, make a show of their loyalty to the President.<sup>73/</sup>

There are many reasons for this subjection to presidential authority. One is that the PRI's monopoly of power confronts labor leaders with little but frustration if they try to remain independent, but offers rich rewards to loyalists, including congressional seats and even governorships. Another is that union elections are almost always stacked, with voting conducted by an open show of hands. Known dissidents are frequently barred from entering the union hall by professional thugs.<sup>74/</sup> On the rare occasions when dissidents nonetheless win an election, the federal government almost always withholds certification.<sup>75/</sup>

This reality belies the superficial appearance of balance on the Federal Arbitration and Conciliation Boards that administer labor laws. Because only cooperative unions are rewarded with seats on the Boards, the labor representatives provide the government with a working majority. In the context of efforts to attract foreign investment, the government and employers also share a common interest: both want to prevent strikes that would exert upward pressure on wages and working conditions.<sup>76/</sup>

Availing themselves of a stipulation in the Federal Labor Law that workers must provide six days' notice prior to going on strike, the Boards either find procedural faults to deny the application, or use their power to impose a settlement.<sup>77/</sup> Should workers not accept the settlement, their employers

<sup>73/</sup> La Botz, Dan, *Mask of Democracy: Labor Suppression in Mexico Today* (Boston: South End Press, 1992), p. 126-129. Freedom House, *Freedom in the World: 1993-1994* (New York: 1994), p. 402.

<sup>74/</sup> "Los petroleros de Nanchital eligieron a...Chico Balderas," *Proceso* (Mexico City: No. 737, 17 December 1990), p. 31-32, on fraud in the 6 December 1990 election in Section 11 of the Oil Workers Union (Nanchital, Veracruz). Karate-trained goon squads blocked dissidents from entering the union hall; temporary workers were offered work contracts in exchange for their votes; and the quorum requirement was ignored. By these means the candidate backed by national leader Sebastián Guzmán Cabrera was made secretary general, and certified by the ministry of labor.

<sup>75/</sup> "Only groups that have joined union confederations affiliated with the PRI, such as the CTM and the CROM, or are supported by a corporation, win legal registration." Lawyers Committee for Human Rights, *Critique: Review of the U.S. Department of State's Country Reports on Human Rights Practices for 1993* (New York: 1994), p. 244. La Botz, Dan, *Mask of Democracy: Labor Suppression in Mexico Today* (Boston: South End Press, 1992), p. 40, 44-47.

<sup>76/</sup> La Botz, Dan, *Mask of Democracy: Labor Suppression in Mexico Today* (Boston: South End Press, 1992), p. 55-56.

<sup>77/</sup> Federal Labor Law, Article 920, Section 3, from *Ley Federal del Trabajo* (Mexico City: Editorial Porrúa, 1994), 915 p. Between 1963 and 1988, the ministry of labor approved only 2.2 percent of all strike petitions -- The Resource

may hire permanent replacements. If the former then choose to strike, the strike is declared "nonexistent," and police (and when necessary troops) are dispatched to "restore order."

A further means of repression is the use of union vigilantes. In December 1989, workers at the Ford Motor Company plant in Cuautitlán (State of México) began work stoppages to insist on their right to elect their own leaders in place of the CTM-imposed "official" union leadership. The following month, CTM gunmen entered the plant and shot workers at random, killing one and wounding several more. Shortly thereafter, a force of nearly a thousand state and federal police officers removed the protesting workers from the premises.<sup>78/</sup>

The Cuautitlán workers responded to the violence inflicted on them by their own union by applying to the Arbitration and Conciliation Board and to the courts to change union affiliation from the CTM to the *Confederación de Obreros Revolucionarios* (Confederation of Revolutionary Workers, COR). On June 3, 1991, an election was held to decide the issue.<sup>79/</sup> A committee of independent observers, consisting of Mexico's most prominent human rights leaders and two Catholic bishops, noted serious abuses in the balloting, including the following:

- The vote was not by secret ballot. Workers were made to voice their votes in the presence of management and CTM personnel, then sign their names beside their votes;
- Ford was allowed to videotape some of the workers in the process of announcing which union they favored;
- Ford and the CTM were allowed to warn workers on their way to vote that they would be fired if they voted against the CTM;
- The government allowed Ford supervisors to determine which workers would be allowed to vote, leaving others disenfranchised;
- The government also allowed the company to enfranchise persons who were ineligible to

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Center, *Bulletin* (Albuquerque, NM: No. 27, Spring 1992). In 1993, it approved only 2.06 percent of all strike petitions (148 out of 7200) -- U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, February 1995), p. 454.

<sup>78/</sup> Levinson, Jerome, "Unrequited Toil: Denial of Labor Rights in Mexico and Implications for NAFTA," *North America Project Special Report #3* (New York: World Policy Institute, April 1993), p. 8-9. La Botz, Dan, *Mask of Democracy: Labor Suppression in Mexico Today* (Boston: South End Press, 1992), p. 148-160.

<sup>79/</sup> "Fraud Alleged in Recent Mexico Union Elections," *Congressional Record* (Washington, D.C.: U.S. Government Printing Office, 1 August 1991), p. H6261-H6262.

vote.<sup>80/</sup>

The same pattern of collusion between government, management, and a PRI-affiliated union was repeated in the suppression of an independent labor revolt at a Sony plant in Nuevo Laredo in 1994. When union activists at Sony's Magnéticos de México subsidiary resisted a plan to require work on Saturdays and Sundays, company management and the CTM teamed up to replace the dissident leadership with more cooperative leaders. In April 1994, they held an election with only twelve hours notice, in which employees were required to announce their votes in the presence of company executives. Three hundred dissident workers responded to what they saw as a rigged election with a work stoppage. The mayor then called in municipal police and firemen, who assaulted the mostly female workers with riot gear and fire hoses to clear them from the premises.<sup>81/</sup>

The lack of a secret ballot at Ford and Sony was by no means unusual. As the U.S. Department of State observed in its 1994 report on human rights in Mexico, "[r]epresentation elections are traditionally open, not secret. Management and union officials are present with the presiding labor board official when each worker openly declares his or her vote."<sup>82/</sup>

In the infrequent cases in which a CTM or other government-approved union leader challenges authority, they are typically arrested on unrelated charges. A prominent example is the fate of Joaquín Hernández Galicia, more commonly known as "La Quina", the once-powerful head of the Oil Workers Union. La Quina had broken the most sacred of Mexico's unwritten rules by quietly mobilizing support within the union for opposition candidate Cuauhtémoc Cárdenas in the 1988 presidential election. In January 1989, one month after his inauguration as president, Carlos Salinas ordered the army to arrest La Quina at his home in Ciudad Madero, Tamaulipas. La Quina was charged with stockpiling weapons reserved for the exclusive use of the army, but witnesses saw troops plant the cases of weapons that were the ostensible evidence for the charge. And though the government claimed troops stormed the

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<sup>80/</sup> Miguel Agustín Pro Human Rights Center, *Report of the Committee of Independent Observers* (Mexico City: 17 June 1991).

<sup>81/</sup> "Mexican Laws in Spotlight as US Reviews Complaints," *Journal of Commerce* (New York: 19 April 1994), p. 6A. "Violenta represión de obreras de Magnéticos," *El Mañana* (Nuevo Laredo: 17 April 1994). Opening Statement of Jerome Levinson in re: *Sony Corporation d/b/a Magnéticos de México*, Proceeding before the U.S. National Administrative Office, Submission No. 940003, 13 February 1995.

<sup>82/</sup> U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, February 1995), p. 454.

residence only after La Quina's bodyguards shot to death federal *Ministerio Público* (Public Ministry) agent Zamora Arrijoja, no one saw Arrijoja or any other civilian agent at the scene, no photographs were taken, no ambulance was called, and not a trace of blood was found at the site. An autopsy determined that Arrijoja, who had been investigating securities fraud by Mexico City insiders, was killed by a shot to the head from a distance of less than two feet, suggesting he may have been executed elsewhere, and his corpse used to fabricate evidence against La Quina.<sup>83/</sup>

Another example is that of Agapito González, head of the Day Laborers and Industrial Workers Union in Matamoros (on the Texas border), who in January 1992:

aggressively tried to negotiate higher wages than the official guidelines sanctioned by the government. González had been a tough negotiator, making Matamoros the most highly unionized town along the border. U.S. factory owners complained to the President of Mexico that González was ruining the climate for foreign investment. Shortly thereafter, Federal Judicial Police descended on Matamoros to arrest the 76-year-old labor leader. In a complaint to the Mexican National Human Rights Commission, González charged he was held incommunicado by agents who questioned him on tax evasion charges, despite the fact he claimed to have evidence of having paid his taxes. González was later transferred to a hospital where he remained under police arrest. Though he was released a few months later, the message to union organizers was clear: aggressive representation of workers that hurt prospects for attracting foreign investment would not be tolerated.<sup>84/</sup>

Such abuses have led the Lawyers Committee for Human Rights to conclude that:

Mexican workers are given no reasonable opportunity to form independent unions and bargain collectively. Independent unions constituted by their members, who meet and vote to decide issues of direct concern to them are practically nonexistent. Mexico suffers from a government-controlled system of officially sponsored and manipulated unions which often take steps antithetical to the best interests of the workers they claim to represent.<sup>85/</sup>

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<sup>83/</sup> "Contradicen los vecinos la versión oficial sobre la captura de La Quina: Ni un civil en el operativo," *Proceso* (Mexico City: No. 637, 16 January 1989), p. 15-17. "En Ciudad Madero nadie vió, ni vivo ni muerto, al agente especial Zamora Arrijoja," *Proceso* (Mexico City: No. 638, 23 January 1989), p. 26-29.

<sup>84/</sup> Levinson, Jerome, "Unrequited Toil: Denial of Labor Rights in Mexico and Implications for NAFTA," *North America Project Special Report #3* (New York: World Policy Institute, 1993), p. 10.

<sup>85/</sup> Lawyers Committee for Human Rights, "Mexico," *Critique: Review of the U.S. Department of State's Country Reports on Human Rights Practices for 1993* (New York: 1994), p. 244.

## VI. SECURITY FORCES

### A. The Armed Forces

Mexico's armed forces are neither trained nor prepared to protect the country from foreign attack. The country has only two borders. To the north it shares a two thousand mile frontier with the United States, whose incomparably greater economic and military power make any conventional military defense unthinkable. To the south it borders tiny Guatemala, which could never pose a credible threat to its other flank. It is perhaps no coincidence that Mexico has been at peace with its neighbors for more than three quarters of a century.

It is customary to point out that Mexico has one of the smallest armed forces relative to its population of any country. The army has 105,000 members; the air force, which is subordinate to the army, 8,000; and the navy, which has its own federal ministry, 35,500.<sup>86/</sup> Yet since the armed forces are used exclusively for domestic functions, such as intercepting drug shipments, patrolling the streets in disputed elections, and suppressing unauthorized strikes, it would be more accurate to describe them as the country's largest police force. Underscoring this reality is the spatial organization of the armed forces. Rather than being concentrated near the borders or divided into highly specialized task forces, the armed forces are apportioned among 36 military zones, one for each state and the Federal District, and two apiece in the southern states of Chiapas, Guerrero, and Veracruz, where rural land conflicts have been especially acute.<sup>87/</sup>

The domestic use of the military rests on a shaky constitutional base.<sup>88/</sup> Though the President is commander-in-chief of the armed forces, his discretionary powers are limited by Article 129, which prohibits military authorities from exercising any powers not immediately connected with military discipline in times of peace, and by Article 29, which requires congressional approval for the suspension of constitutional guarantees during national or local emergencies. Such approval has seldom been sought. It was not sought by President Salinas when he dispatched troops to arrest Oil

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<sup>86/</sup> Barry, Tom, *Mexico: A Country Guide* (Albuquerque, NM: Resource Center, 1992), p. 55.

<sup>87/</sup> These are official figures supplied by the Mexican military attaché in Washington (by way of the Mexican embassy press office) in December 1994. When it was pointed out that the figures for military zones do not add up correctly, the attaché declined to make any correction, stating this was privileged information involving national security.

<sup>88/</sup> Minnesota Advocates for Human Rights, "Civilians at Risk: Military and Police Abuses in the Mexican Countryside," *North America Project Special Report #6* (New York: World Policy Institute, August 1993), p. i-ii, 27-30.

Workers Union leader Joaquín Hernández Galicia ("La Quina") in Ciudad Madero in January 1989, nor, in August 1989, when he sent five thousand paratroopers to take over the Cananea copper mine in Sonora during a labor dispute.<sup>89/</sup> In April 1990, Salinas ordered columns of tanks and armored personnel carriers into the central state of Michoacán to dislodge citizens who had occupied town halls to protest electoral fraud. Again, this was done without congressional authorization.<sup>90/</sup>

More recently, the army was ordered to suppress the January 1994  *Zapatista* insurrection in Chiapas. As in the aforementioned cases, there was no formal suspension of constitutional rights. Yet international human rights organizations have documented serious abuses of human rights, including the widespread torture and the execution of captives. According to Americas Watch (now known as Human Rights Watch/Americas), none of these crimes has been prosecuted or even seriously investigated.<sup>91/</sup>

By contrast, an army general who tried to call attention to the problem of human rights violations in the military was promptly imprisoned on charges of insubordination. In October 1993, Francisco Gallardo, a West Point-trained officer who became the youngest brigadier general in the history of the modern Mexican army, published an excerpt from a Master's thesis in which he proposed the creation of a human rights ombudsman for the armed forces. Referring to a series of recent human rights violations by the military, Gallardo wrote:

Why must cruel and degrading acts that undermine the ethics and dignity of the army be allowed to go unpunished, for the sole reason of enforcing 'discipline'? -- acts that can at any time seriously compromise national security, like the incidents in Tlaxcoyan, Veracruz, Baborígame and Mesa de la Guitarra, Chihuahua, and in Chiapas, among others.<sup>92/</sup>

The massacre of federal drug enforcement agents by army troops at Tlaxcoyan is described in the

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<sup>89/</sup> La Botz, Dan, *Mask of Democracy: Labor Suppression in Mexico Today* (Boston: South End Press, 1992), p. 114-126.

<sup>90/</sup> "En la permanente, el PRD denunció como ilegal el envío de militares a Michoacán," *Proceso* (Mexico City: No. 701, 9 April 1990), p. 11, 34.

<sup>91/</sup> Human Rights Watch/Americas, *The New Year's Rebellion: Violations of Human Rights and Humanitarian Law During the Armed Revolt in Chiapas, Mexico* (New York: 1 March 1994), 29 p. Physicians for Human Rights and Human Rights Watch/Americas, *Waiting for Justice in Chiapas* (Boston and New York: December 1994), 159 p.

<sup>92/</sup> "El artículo en la revista *Forum*, 'cuerpo del delito' contra el general," *Proceso* (Mexico City: No. 894, 20 December 1993), p. 17.

following section; some of the wholesale violations of human rights in Chihuahua and Chiapas are described in the subsection on indigenous peoples under "groups at risk." The other incident referred to is the torture and execution of five captives by troops in Mesa de la Guitarra, Chihuahua, on June 23, 1993.<sup>93/</sup>

Gallardo was arrested within a month of the publication of the article, and has been a prisoner in Military Camp Number One (on the outskirts of the Federal District) ever since.<sup>94/</sup> Even repeated decisions in the general's favor by Mexican courts have been unable to secure his release. The army high command has simply prepared new charges to replace those that have been thrown out.<sup>95/</sup>

Such abuses underscore the danger of using the army as a police force. Since the military leadership is even further insulated from civilian scrutiny than the regular police forces, and since soldiers are trained primarily to combat enemies, not respect the constitutional guarantees of fellow-citizens, abuses of fundamental human rights are both more likely to occur and more difficult to correct.

### **B. Federal and State Police Structure and Relationship**

Mexico has a bewildering variety of conventional police forces, ranging from federal and state judicial police to riot police, customs police, bank police, municipal police, rural police, forestry police, traffic police, and subway police. From a human rights standpoint, however, the most important distinction is between "preventive" police, and "judicial," or "prosecutorial," police.<sup>96/</sup>

The preventive police are the uniformed officers readily apparent to visitors. Bank police, with their bullet-proof vests and submachine guns, are intended to deter robberies; riot police, with their visors, shields, nightsticks, and German shepherds, are meant to deter hostile gatherings; and traffic police are posted to encourage motorists to abide by the rules of the road.

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<sup>93/</sup> "No hubo enfrentamiento; en Mesa de la Guitarra fueron ejecuciones," *Proceso* (Mexico City: No.870, 5 July 1993), p. 16.

<sup>94/</sup> Minnesota Advocates for Human Rights, *Stifling Human Rights Advocacy in Mexico: The Censure of Brigadier General José Francisco Gallardo Rodríguez* (Minneapolis, MN: May 1994), 11 p.

<sup>95/</sup> "Va perdiendo la cúpula militar su guerra legal contra el general Gallardo," *Proceso* (Mexico City: No. 940, 7 November 1994), p. 40.

<sup>96/</sup> Minnesota Lawyers International Human Rights Committee, *Paper Protection: Human Rights Violations and the Mexican Criminal Justice System* (Minneapolis, MN: July 1990), p. 1-2.

Judicial police, on the other hand, are supposed to investigate crimes that have already occurred, and to locate and arrest criminals. Unlike the other police forces, they wear plain clothes and drive unmarked vehicles. They can often be spotted, however, by the two-way radio antennas on their vehicles, and by an absence of license plates. Together with the frequent use of dark sunglasses and smoked-glass windows, these features accentuate their reputation as the most dangerous and feared police forces in the country. Most complaints of extrajudicial execution and torture filed with human rights organizations involve the judicial police, and, more particularly, the Federal Judicial Police.<sup>97/</sup>

One of the reasons the judicial police commit serious crimes is inherent in the structure of the judicial system itself. There are three types of judicial police -- the Federal Judicial Police, State Judicial Police, and Judicial Police of the Federal District (Mexico City). All three are under the control of the respective public prosecutors, who in turn answer to the Attorneys General for the federation, the states, and the Federal District. Since prosecutors are responsible for securing convictions, they are less likely to look after the rights of the accused. Placing the police under their control creates a built-in tendency towards the abuse of human rights. A related problem, discussed earlier, is that the Mexican Constitution allows confessions to be made to the prosecutor, or to a judge. That tends to encourage the judicial police, who answer to the prosecutor, to use rough methods to force detainees to sign confessions.<sup>98/</sup>

A further source of abuse is the widespread use of covert agents known as *asmadrinas* ("godmothers"), or *meritorios* ("deserving ones"). Though often heavily armed, these agents are kept off the books, and because they do not act in an official capacity they can be used to circumvent the law. The judicial police use them to do their dirty work, then deny any responsibility. The fact that *madrinas* are not on a regular payroll also fosters corruption. Since they cannot be paid out of public funds, they are often paid out of the proceeds of drug busts, or

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<sup>97/</sup> Acosta, Mariclaire, "El Sexenio salinista y los Derechos Humanos," *Reforma* (Mexico City: No. 14, 17 July 1994). Freedom House, *Freedom in the World: 1993-1994* (New York: 1994), p. 401. U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1993* (Washington, D.C.: U.S. Government Printing Office, February 1994), p. 489. Mariclaire Acosta is the president of the Mexican Commission for the Defense and Promotion of Human Rights.

<sup>98/</sup> Amnesty International, *Mexico: The Persistence of Torture and Impunity* (London: June 1993), p. 2-3.

with protection money supplied by drug traffickers and other criminals.<sup>99/</sup>

Perhaps the worst corrupting influence on the judicial police, however, is the impunity with which police commanders and their superiors violate the law. In 1992, the World Policy Institute published a study that examined what happened to eight Federal Judicial Police commanders and subcommanders who had been exposed for serious violations of human rights, including torture and murder. None were prosecuted. And though all were said to have been dismissed from their posts, they were only transferred to other states, where they kept the same rank, and resumed their abusive practices. When their continued violations of human rights created a public relations embarrassment, they were quietly transferred yet again.<sup>100/</sup> The report, which was submitted to the United Nations Committee on Torture, contributed to a decision by the Committee that noted the continuing high incidence of torture despite legal reforms, and faulted the Mexican government for its failure to prosecute those responsible.<sup>101/</sup> To head off international embarrassment that could have jeopardized efforts to finalize NAFTA, President Salinas named a new Attorney General in January 1993, turning to Jorge Carpizo, head of the government's human rights commission, to clean up the Federal Judicial Police's image. Unlike his predecessors, Carpizo did crack down on corrupt agents, but was sometimes frustrated in his efforts by federal judges who dismissed charges.<sup>102/</sup>

Top-level offenders, however, have remained untouchable. A case in point is President Salinas' first Deputy Attorney General for the Fight Against Drug Trafficking, Javier Coello Trejo. Nicknamed the "Iron Prosecutor," Coello's aggressiveness in fighting narcotics trafficking drew

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<sup>99/</sup> Minnesota Lawyers International Human Rights Committee, *Paper Protection: Human Rights Violations and the Mexican Criminal Justice System* (Minneapolis, MN: July 1990), p. 6, 9-10.

<sup>100/</sup> Ely-Yamin, Alicia, "Justice Corrupted, Justice Denied: Unmasking the Untouchables of Mexico's Federal Judicial Police," *North America Project Special Report #2* (New York: World Policy Institute, November 1992), 50 p.

<sup>101/</sup> UN Committee Against Torture, *Ninth Session, summary record of the third part (public) of the 131st meeting* (Geneva: CAT/C/SR.131/Add.2, 17 November 1992), p. 2.

<sup>102/</sup> Ely-Yamin, Alicia, "Six Months After the U.N. Verdict: An Update on Impunity in the Mexican Federal Judicial Police," *North America Project Special Report #5* (New York: World Policy Institute, May 1993), p. 7-9.

praise from U.S. government officials who sought tough measures against drug traffickers.<sup>103/</sup>

Yet his lawless and indiscriminate methods inevitably entailed killing and torturing not only drug traffickers, but innocent citizens. After four of Coello's own bodyguards were arrested for raping at least nine women in Mexico City, protests from politicians, journalists, and opinion-makers led to his removal.<sup>104/</sup> Rather than investigate and prosecute Coello, however, Salinas named him Federal Attorney for Consumer Affairs.<sup>105/</sup>

Even while he was being publicly praised by U.S. officials for his aggressive pursuit of drug traffickers, Coello was apparently receiving payoffs from the Mexican drug mafia. In 1994, a relative and associate of Juan García Abrego, head of the Gulf Cartel headquartered in Matamoros, told a Texas court that Abrego paid Coello more than a million dollars in protection money while the latter was in charge of the drug war.<sup>106/</sup> According to another former lieutenant in the Gulf Cartel, Coello's top deputy, Guillermo González Calderoni, received some \$50 million from Abrego.<sup>107/</sup> Yet Coello was recently reported to be an advisor to Arsenio Farrell, director of the newly-created *Coordinación de Seguridad Pública de la Nación* (Coordination of National Public Security, CSPN), an umbrella organization that coordinates the country's police and security forces.<sup>108/</sup>

The CSPN was created by executive order on April 26, 1994, following a series of fatal

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<sup>103/</sup> "American officials have lauded Coello's aggressiveness in fighting narcotics trafficking and his close cooperation with the Drug Enforcement Administration. 'He's been great. This is a blow,' said a U.S. official." "Mexico's Tough Drug Czar Loses His Job," *Los Angeles Times* (Los Angeles: 16 October 1990).

<sup>104/</sup> Americas Watch, *Unceasing Abuses: Human Rights in Mexico One Year after the Introduction of Reforms* (New York: Human Rights Watch, September 1991), p. 6-7.

<sup>105/</sup> "Mexico's Tough Drug Czar Loses His Job," *Los Angeles Times* (Los Angeles: 16 October 1990). Coello's successors were reputed to be more competent and more honest.

<sup>106/</sup> "Del expediente de un juicio en Texas: Como subprocurador, Coello Trejo recibió `más de un millón de dólares' de García Abrego," *Proceso* (Mexico City: No. 934, 26 September 1994), p. 12, 14-15.

<sup>107/</sup> "González Calderoni, hilo de la corrupción y compadrazgos entre altos funcionarios mexicanos y narcotraficantes: Como brazo derecho de Coello Trejo, obtuvo del Cártel del Golfo unos 50 millones de dólares, según un cómplice de García Abrego," *Proceso* (Mexico City: No. 934, 26 September 1994), p. 16-19.

<sup>108/</sup> "A sus éxitos policíacos, el `fiscal de hierro' unió corruptelas, violación de derechos y complicidades criminales," *Proceso* (Mexico City: No. 934, 26 September 1994), p. 13.

confrontations between army units, Federal Judicial Police, and State Judicial Police.<sup>109/</sup> One of them occurred on an airstrip at Tlalixcoyan, Veracruz, on November 7, 1991, when drug enforcement agents of the Federal Judicial Police landed in hot pursuit of a small plane carrying Colombian cocaine, and were gunned down by army units, killing seven.<sup>110/</sup> Though the government at first portrayed the incident as a mistake, it turned out that the local army detachment had been protecting the traffickers, who were being refueled to fly to the United States. Following disclosure that the U.S. Drug Enforcement Administration had videotaped the event from another plane that was also hit by army fire, President Salinas imprisoned the commanding general in Veracruz, but also dismissed a deputy attorney general in order to make it seem both sides were at fault, and avoid embarrassing the army.<sup>111/</sup>

There have also been a series of confrontations between federal and state judicial police, the most recent of which occurred in Tijuana on March 3, 1994. When a team of anti-narcotics agents of the Federal Judicial Police tried to arrest a key lieutenant in the Tijuana Cartel (headed by the Arellano Félix brothers), they were ambushed by Baja California State Judicial Police, who killed the federal task force leader. The mobster, who was being protected by the state police, escaped.<sup>112/</sup> Because of the notoriety of the Arellano brothers, who are wanted for the 1993 murder of Cardinal Juan Posadas of Guadalajara, the shoot-out drew a lot of attention, contributing to the decision to create the CSPN.<sup>113/</sup>

As specified in the executive order, the entity coordinates joint actions between the federal and state Attorneys General -- and by extension the Federal and State Judicial Police -- and the army, the navy, and the interior ministry. This has several consequences. One is to further involve the military in domestic law-enforcement, underscoring its role as a police and internal

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<sup>109/</sup> *Diario Oficial* (Mexico City, 26 April 1994), p. 2-3.

<sup>110/</sup> "Testimonios e investigaciones coinciden: los siete judiciales fueron acribillados a mansalva," *Proceso* (Mexico City: No. 785, 18 November 1991), p. 6-11.

<sup>111/</sup> "El presidente exaltó al ejército, tras la remoción de militares y las renuncias en la procuraduría," *Proceso* (Mexico City: No. 789, 16 December 1991), p. 26-27.

<sup>112/</sup> *Latin America Intelligence Report*, 10 March 1994, translation of article from *UnoMásUno*.

<sup>113/</sup> *Proceso* (Mexico City: No. 934, 26 September 1994), p. 13, citing *El Financiero*.

security agency rather than a means of national defense against foreign threats. Another is to enhance the arbitrary powers of the presidency. By appointing Arsenio Farrell, who as Secretary of Labor engaged in systematic violations of labor rights, President Salinas in effect signaled that respect for constitutional guarantees would not be a paramount concern. Indeed, one of the CSPN's first actions was a raid in the state of Morelos, in which Federal Judicial Police officers arrested six individuals without a warrant, then subjected them to torture by electric shock and submersion in water.<sup>114/</sup>

## **VII. CORRUPTION AND IMPUNITY: REFORMERS ARE ESPECIALLY VULNERABLE TO RETALIATION**

The examples of corruption in the police and military described in the preceding section are not isolated cases. When Mexican civil servants succumb to bribes, pay-offs, and other lucrative temptations, they are frequently emulating rather than defying their superiors. Though there are, and have been, many honest and incorruptible members of the Mexican cabinet, there have also been many corrupt ministers. Because of an unwritten rule that forbids prosecution of cabinet-level officials, the latter have so far enjoyed almost complete impunity. The worst punishment they have received is being transferred to another post or being forced to retire if exposure of corruption turns them into serious public relations liabilities for the government.<sup>115/</sup>

One serious consequence of impunity is that it leaves Mexican reformers and whistle-blowers particularly vulnerable to state-sanctioned or instigated violence. As dramatized by a series of prominent assassinations over the past two years, discussed further on, the risks of confronting corruption are very high.

Much, if not most, of the corruption in high places is related to narcotics trafficking. The preceding section described how Javier Coello Trejo, the top drug enforcement official during the first few years of the Salinas administration, reportedly received payoffs from Juan García

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<sup>114/</sup> Minnesota Advocates for Human Rights, *The Mexican Coordination of National Public Security: A Discussion of Legal and Human Rights Issues* (Minneapolis, MN: June 1994), p. 4-5.

<sup>115/</sup> "The Crumbling of the 'Perfect Dictatorship': Mexico's Democratic Challenge," *World Policy Journal* (New York: World Policy Institute, Vol. 8, No. 2, Spring 1991), p. 266-267. Amnesty International, *Amnesty International Report 1987* (London: 1988), p. 267-269.

Abrego, head of the Gulf Cartel based in Tamaulipas. Coello's boss, former attorney general Enrique Alvarez del Castillo, was likewise implicated in the narcotics protection racket. Alvarez, who was governor of the state of Jalisco at the time of the kidnapping and murder of U.S. drug enforcement agent Enrique Camarena, was one of several cabinet members accused in the Los Angeles trial of being on the payroll of the Guadalajara Cartel, and of participating in the decision to kill Camarena.<sup>116/</sup> Whatever the truth of those allegations, Jalisco state police joined Federal Judicial Police in an unusual infringement on the sovereignty of the neighboring state of Michoacán, where they raided a ranch and killed four of its occupants. Immediately after their departure, a passerby discovered the decaying bodies of Camarena and his pilot. A forensic examination determined that the bodies had been buried in Jalisco, then disinterred and dumped across the border, in an apparent effort to implicate then-governor Cuauhtémoc Cárdenas (more recently presidential candidate of the opposition PRD), who had just then begun to denounce corruption in the PRI.<sup>117/</sup> Moreover, Governor Alvarez never made any serious effort to apprehend Miguel Angel Félix Gallardo, the Guadalajara kingpin, despite the issuance of three warrants for his arrest.<sup>118/</sup> Far from investigating these peculiarities, President Salinas appointed Alvarez Attorney General, in effect signalling to Mexican officialdom that there would be no serious crackdown on corruption.

During Alvarez's tenure, the Federal Judicial Police committed numerous acts of torture and murder. When the *Comisión Nacional de Derechos Humanos* (National Human Rights Commission, CNDH) recommended further investigation or disciplinary action against the officials involved, Alvarez refused to comply.<sup>119/</sup> Eventually, the bad publicity forced his removal, but even then President Salinas praised his performance and placed him in charge of Banobras, the

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<sup>116/</sup> "Testimony Links Mexican Officials to Agent's Death: Cabinet Members Helped Plot Camarena Murder, Informant Says. Mexico Denounces Accusation," *Los Angeles Times* (Los Angeles: 9 December 1992), p. A1.

<sup>117/</sup> Reding, Andrew, "Taking Away City Hall: Reform Brings Reprisal in a Mexican Town," *Texas Observer* (Austin, TX: Vol. 82, No. 18, 16 September 1990), p. 9-10.

<sup>118/</sup> "Alvarez del Castillo, sospechoso de proteger al narco, desde 1983," *Proceso* (Mexico City: No. 840, 7 December 1992), p. 9-17.

<sup>119/</sup> Americas Watch, *Unceasing Abuses: Human Rights in Mexico One Year after the Introduction of Reforms* (New York: Human Rights Watch, September 1991), p. 3-5.

federal Public Works Bank.<sup>120/</sup>

Despite several high-profile arrests of drug traffickers -- Rafael Caro Quintero, Miguel Angel Félix Gallardo, Joaquín (El Chapo) Guzmán -- the narcotics business expanded during the Salinas administration, helped in large measure by the administration's unwillingness to curtail impunity in high places. More disturbing than the quantitative gains were changes in the nature of drug trafficking. Increasingly, Mexico became a transshipment zone for the Colombian cocaine trade run by the Cali Cartel. With that change came a vast increase in the money available to buy influence, and the emergence of new forms of political violence.<sup>121/</sup>

On May 24, 1993, gunmen hired by the Tijuana Cartel murdered Cardinal Juan Jesús Posadas at the international airport in Guadalajara. The government insisted the murder was a case of mistaken identity, even though the cardinal, a former bishop of Tijuana, was wearing clerical garb and a pectoral cross. According to witnesses and forensic experts, the gunmen opened the door to the cardinal's car, then riddled his body with bullets from a distance of only three feet. The assassins, two of whom had presented Federal Judicial Police credentials, then boarded an Aeromexico flight whose departure had been delayed almost an hour to await "other passengers." Upon arrival in Tijuana several hours later, they deplaned without interference from federal authorities.<sup>122/</sup> As of February 1995, neither Benjamín nor Javier Arellano Félix, the reputed kingpins of the Tijuana Cartel who the government accused of hiring the killers, had been arrested.

On March 23, 1994, PRI presidential candidate Luis Donaldo Colosio was shot to death during a campaign appearance in Tijuana. Considered a reformer, Colosio had broken party

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<sup>120/</sup> "La función pública de Alvarez del Castillo, marcada por los ilícitos," *Proceso* (Mexico City: No. 760, 27 May 1991), p. 10. Americas Watch, *Unceasing Abuses: Human Rights in Mexico One Year after the Introduction of Reforms* (New York: Human Rights Watch, September 1991), p. 8.

<sup>121/</sup> Reding, Andrew, "Behind Mexico's Violence: The Rise of Middle-Man Drug Cartels," *Los Angeles Times* (Los Angeles: 9 October 1994), p. M2. Robberson, Tod, "'Narcopolitics' Runs Rampant in Tijuana," *Washington Post* (Washington, D.C.: 15 May 1994), p. A27.

<sup>122/</sup> "Caso Posadas: Ante las versiones oficiales, indignación, dudas, incredulidad," *Proceso* (Mexico City: No. 866, 7 June 1993), p. 7-10.

protocol by refusing to campaign with corrupt former governors and mayors.<sup>123/</sup> He had also cancelled a meeting with Humberto García Abrego, brother of Gulf Cartel kingpin Juan García Abrego, upon being alerted of the connection.<sup>124/</sup>

According to the original inquiry, Colosio was the victim of a lone deranged assassin. Yet the coroner's report showed the slain candidate had been struck by two bullets, entering opposite sides of his body.<sup>125/</sup> Tijuana police arrested a second suspect on the scene, who was splattered with Colosio's blood and tested positive for having fired a handgun.<sup>126/</sup> The suspect -- Jorge Antonio Sánchez -- turned out to be an agent of the *Centro para Investigaciones de Seguridad Nacional* (Center for Investigations of National Security, CISEN), under the aegis of the Secretariat of Government.<sup>127/</sup>

Tijuana Police Chief José Federico Benítez, a PAN appointee, publicized the discovery of a second handgun at the scene of the crime, and began investigating José Rodolfo Rivapalacio, the PRI municipal committeeman who took charge of security for the rally. A former State Judicial Police commander, Rivapalacio had previously been cited by the CNDH for the 1989 torture of a Peruvian citizen. He was never prosecuted, but resigned to avoid being fired by incoming PAN governor Ernesto Ruffo. Rivapalacio, whose own daughter describes him as a very violent man who beat his wife and children, is also suspected of hiring a hit man in a failed attempt to murder his estranged wife in San Diego. On April 28, 1994, shortly after intruders stole Benítez's files on Rivapalacio, assailants armed with assault rifles assassinated the police chief and his bodyguard on

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<sup>123/</sup> "Cambios con Zedillo...el regreso de `dinosaurios,'" *Proceso* (Mexico City: No. 910, 11 April 1994), p. 13.

<sup>124/</sup> "'Alerté a Colosio y comenzó a dar pasos para librarse de los narcopolíticos, pero se le adelantaron': Eduardo Valle," *Proceso* (Mexico City: No. 928, 15 August 1994), p. 18.

<sup>125/</sup> "El dictamen de autopsía no precisa el calibre de las balas, pero señala: la herida en el cráneo, con trayectoria de derecha a izquierda; la del abdomen, de izquierda a derecha," *Proceso* (Mexico City: No. 909, 4 April 1994), p. 27. "New Murder in Mexico Deepens Assassination Mystery," *Washington Post* (Washington, D.C.: 1 May 1994), p. A1.

<sup>126/</sup> The test results on Sánchez's hands were identical to those on the hands of Mario Aburto, the alleged sole assassin. *Proceso* (Mexico City: No. 914, 9 May 1994), p. 28.

<sup>127/</sup> "Coincidencias de los presuntos cómplices: Todos policías, tres con antecedentes delictivos," *Proceso* (Mexico City: No. 909, 4 April 1994), p. 35.

the streets of Tijuana.<sup>128/</sup>

In August 1994, Eduardo Valle Espinosa, who headed an anti-narcotics task force under former Attorney General Jorge Carpizo, rocked the political establishment by making public a letter to President Salinas, in which he alleged that PRI candidate Luis Donaldo Colosio was the victim of a conspiracy between drug lords and corrupt politicians.<sup>129/</sup> From the relative safety of Washington, D.C., Valle claimed the mob's influence extended into President Salinas' cabinet. He was able to document meetings between Secretary of Communications and Transportation Emilio Gamboa and his chief deputy -- the top officials overseeing the nation's airports and highways -- and Marcela Bodenstedt, a former federal policewoman in the employ of Juan García Abrego, kingpin of the Gulf Cartel.<sup>130/</sup>

According to Valle, Marcela Bodenstedt's lover, Marcelino Guerrero, is a money launderer for the Gulf Cartel. His investments in Cancún are said to be linked to those of Jorge Hank Rhon, the son and business manager of Carlos Hank González, Secretary of Tourism and later Secretary of Agriculture in the Salinas administration.<sup>131/</sup> Among the younger Hank's other holdings is the Agua Caliente racetrack in Tijuana, which is also reputed to launder money for the mob.<sup>132/</sup> In 1988, an editor of a local weekly newspaper who began probing into Jorge Hank's business dealings was murdered by racetrack security guards.<sup>133/</sup>

The elder Hank emerged as a major power broker in the days following the assassination

<sup>128/</sup> "New Murder in Mexico Deepens Assassination Mystery," *Washington Post* (Washington, D.C.: 1 May 1994), p. A1.

<sup>129/</sup> "Eduardo Valle, exasesor de Carpizo en la PGR, dispuesto a declarar sobre el asesinato de Colosio," *Proceso* (Mexico City: No. 926, 1 August 1994), p. 40-41.

<sup>130/</sup> "'Alerté a Colosio y comenzó a dar pasos para librarse de los narcopolíticos, pero se le adelantaron': Eduardo Valle," *Proceso* (Mexico City: No. 928, 15 August 1994), p. 18-23. "Mexico's Drug Fight Lagging, With Graft Given as a Cause," *New York Times* (New York: 7 August 1994), p. A16.

<sup>131/</sup> "'Alerté a Colosio y comenzó a dar pasos para librarse de los narcopolíticos, pero se le adelantaron': Eduardo Valle," *Proceso* (Mexico City: No. 928, 15 August 1994), p. 18-23.

<sup>132/</sup> Robberson, Tod, "'Narcopolitics' Runs Rampant in Tijuana," *Washington Post* (Washington, D.C.: 15 May 1994), p. A27.

<sup>133/</sup> Murray, William, "To the Left of Zero: A Reporter at Large," *The New Yorker* (New York: 31 July 1989), p. 57-66.

of Colosio. After President Salinas chose Ernesto Zedillo to substitute for Colosio as PRI candidate, Carlos Hank took charge of marshalling support for Zedillo. In violation of a new electoral law, Hank faxed letters on official stationery to present and former members of the government, asking for endorsements of Zedillo.<sup>134/</sup> With Humberto Benítez Treviño, a Hank protégé, as Attorney General, opposition calls for prosecution went nowhere. Hank also managed to install Ignacio Pichardo, another protégé, as president of the PRI, even as José Francisco Ruiz Massieu, from the party's reform wing, was made secretary-general.<sup>135/</sup>

On September 28, 1994, another assassin, reputedly hired by conservative PRI politicians with links to the Gulf Cartel, shot to death José Francisco Ruiz Massieu in Mexico City, just as he was about to become majority leader in the Chamber of Deputies. The hit man, Daniel Aguilar Treviño, said he was hired by Fernando Rodríguez González, an employee of Manuel Muñoz Rocha, a PRI federal legislator from Tamaulipas and chairman of the *Comisión de Asuntos Hidráulicos* (Hydraulic Affairs Commission) of the Chamber of Deputies.<sup>136/</sup> Muñoz Rocha disappeared and has not been seen since. One of his alleged co-conspirators, Abraham Rubio Fernández, is married to the daughter of Raúl Valladares del Angel, a top lieutenant in the Gulf Cartel.<sup>137/</sup>

By the unwritten rules of the Mexican political system, Muñoz Rocha could not have become chairman of a congressional committee that deals with water resources without the backing of the Secretary of Agriculture and Water Resources, who at the time was Carlos Hank González.<sup>138/</sup> Yet when Mario Ruiz Massieu, brother of the deceased and Deputy Attorney

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<sup>134/</sup> "Hank González violó la ley: con papel membretado y desde un fax de la Secretaría de Agricultura, convocó a la cargada por Zedillo," *Proceso* (Mexico City: No. 911, 18 April 1994), p. 20-23.

<sup>135/</sup> "En posiciones claves, en el gobierno y en el partido, los hombres del profesor," *Proceso* (Mexico City: No. 937, 17 October 1994), p. 20.

<sup>136/</sup> "Mario Ruiz Massieu activa y desactiva la bomba política arrojada entre los nerviosos legisladores," *Proceso* (Mexico City: No. 937, 17 October 1994), p. 24-25.

<sup>137/</sup> *Proceso* (Mexico City: No. 935, 3 October 1994), p. 12.

<sup>138/</sup> "Hay políticos metidos en el narcotráfico y políticos que son narcotraficantes": Mario Ruiz Massieu," *Proceso* (Mexico City: No. 943, 28 November 1994), p. 19, 21.

General, tried to investigate Hank and other prominent politicians, he ran into a wall of resistance.<sup>139/</sup> On November 23, 1994, he resigned, accusing PRI President Ignacio Pichardo Pagazo and Attorney General Humberto Benítez Treviño -- both protégés of Carlos Hank -- of blocking the investigation.<sup>140/</sup> Shortly thereafter, the *New York Times* reported that drug smugglers were beginning to use old commercial jetliners to fly enormous quantities of Colombian cocaine into Mexican airstrips, including one operated by the airline Taesa, controlled by Carlos and Jorge Hank.<sup>141/</sup>

Reaching outside the ruling party in an apparent attempt to curb corruption, in December 1994 incoming president Ernesto Zedillo chose as his Attorney General Antonio Lozano, minority leader of the opposition *Partido de Acción Nacional* (National Action Party, PAN). Lozano, who was given a mandate to reopen the investigations into the assassinations of Posadas, Colosio, and Ruiz Massieu, in turn chose Juan Pablo de Tavira to head the Federal Judicial Police. De Tavira had built a reputation as an uncorruptible prison chief who refused to allow jailed drug kingpins to buy comfortable accommodations and to continue to run their syndicates from within prison walls.<sup>142/</sup> On December 23, 1994, de Tavira met with Attorney General Lozano for a pre-Christmas Eve toast, and arranged to meet the following morning to discuss plans to remove Federal Judicial Police commanders suspected of collaborating with the drug cartels.

De Tavira never made it to the appointment. On the night of the 23rd, he was poisoned in his sleep with a toxic gas that left him in a coma. Two days later, he pulled out of the coma and reportedly told members of his family and colleagues from the attorney general's office that he was certain he had been poisoned by his chief bodyguard, police commander Alberto de Jesús Castillo de la Riva, the only other person to enter his home that fateful night. On January 8, de

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<sup>139/</sup> "Arrinconados por Ruiz Massieu, los dirigentes de PRI acuden a su argumento habitual: La fuerza de la mayoría," *Proceso* (Mexico City: No. 942, 21 November 1994), p. 22-23.

<sup>140/</sup> "Hay políticos metidos en el narcotráfico y políticos que son narcotraficantes": Mario Ruiz Massieu," *Proceso* (Mexico City: No. 943, 28 November 1994), p. 18-19.

<sup>141/</sup> "Tons of Cocaine Reaching Mexico in Old Jets," *New York Times* (New York: 10 January 1995), p. A1.

<sup>142/</sup> "Al frente del penal de Almoloya desafío a los grandes capos: El primer objetivo de Juan Pablo de Tavira como director de la PJF: descubrir hasta dónde está infiltrada por el narco," *Proceso* (Mexico City: No. 954, 13 February 1995), p. 34-37.

Tavira was released from the hospital, only to be readmitted to intensive care the following day, as delayed effects of the poison stripped the myelin sheaths from his nerve fibers, leaving him completely paralyzed, unable to even speak.<sup>143/</sup>

The recent attacks on politicians and police officials underscore the extent of the danger faced by anyone who is perceived to threaten the power of crooked officials and drug barons. Even honest police chiefs and reformist leaders of the ruling party are at risk. Until two years ago, that would have been unthinkable. Now, in the context of larger political changes that threaten the established power of corrupt party bosses and their allies in the drug syndicates, anyone can be a target, from a Roman Catholic cardinal to a PRI presidential candidate to the national chief of police. Regardless of the stature of the victims, the unwritten rules of the political system, originally designed to ensure harmony within the PRI, often allow powerful transgressors to get away with murder.

### **VIII. ELECTIONS, ELECTORAL FRAUD, AND SELECTIVE TARGETING OF OPPOSITION SYMPATHIZERS**

As in the case of the police, the multiplicity of federal, state, and municipal jurisdictions contributes to a very complicated electoral calendar. Unlike the United States, Mexico does not group its elections around a fixed day. Federal elections are set for the third Sunday in August on every third year, with presidential and senatorial elections scheduled every six years, and the entire Chamber of Deputies (the lower house of Congress) elected every three years. Few states time their elections to match federal elections. In 1994, only Chiapas held a concurrent gubernatorial election; several states, including Chiapas, elected state congresses. Moreover, it is common for states to hold gubernatorial, legislative, and municipal elections on separate dates. Thus there is almost always an election or election campaign underway somewhere in Mexico at any given time.

Even then, nothing is firm. Changes in the electoral calendar are frequent at all levels. The 1994 presidential election was held on the third Sunday in August; the 1988 election on the

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<sup>143/</sup> "Las siete horas que acabaron con el director de la Judicial Federal: Envenenado con gas, Juan Pablo de Tavira agoniza; el jefe de su escolta, principal sospechoso," *Proceso* (Mexico City: No. 954, 13 February 1995), p. 28-33.

first Sunday in July. In 1993, the Yucatán legislature arbitrarily reduced the gubernatorial term of office from six years to 18 months on a one-time-only basis, fearing the PAN would win the election. As it turned out, the PRI held onto the governorship, though not without recourse to electoral fraud. Under cover of a power blackout, PRI operatives modified election tallies, allowing the PRI to claim a narrow victory.<sup>144/</sup>

As described in the first section of this report, fraud has long been a regular feature of Mexico's electoral landscape. It has, in fact, become so sophisticated and widespread as to spawn a specialized vocabulary. *Acarreo* is the stacking of PRI campaign rallies with people who are bused in with promises of free lunches or reminders of who paved their street. *Tacos de votos* are multiple ballots rolled inside each other like tacos, then deposited all at once to conceal the casting of several ballots by the same individual. *Brigadas volantes* ("flying brigades") are teams of police, soldiers, or other party faithful who are bused from one polling station to another on election day so that they may vote several times.<sup>145/</sup> Though the introduction of photo-ID cards has cut back on these techniques, they have been supplanted by more modern, computer-based forms of fraud. These include *la rasurada*, in which opposition voters are selectively "shaved" from the voter lists, so that they are unable to vote even with a valid photo-ID card, and *ratón loco*, in which polling locations are changed at the last minute in districts dominated by the opposition, forcing voters to hunt for the polls like "crazed mice."

Recent reforms have led to measurable improvements, which are most easily summarized with a "before and after" view of the voting process itself. Upon arriving at the polling station, the voter must present his or her voter ID card. Until the 1994 presidential election, that card contained only typewritten information, making repeat voting relatively easy. Now the card bears

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<sup>144/</sup> The blackout was ostensibly caused by a malfunction in Chiapas but only affected part of Yucatán as the ballots were being counted. In some municipalities, the number of votes cast exceeded the number of registered voters by as much as 40 percent. "En Mérida, elección fraudulenta, renuncia inválida, dictamen sin sustento jurídico," *Proceso* (Mexico City: No. 895, 27 December 1993), p. 21, 25.

<sup>145/</sup> Reding, Andrew, "Chiapas Is Mexico: The Imperative of Political Reform," *World Policy Journal* (New York: World Policy Institute, Vol. 11, No. 1, Spring 1994), p. 19.

a color photograph.<sup>146/</sup> Provided the voter's name appears on the list, he or she is given several paper ballots, one for each position to be filled. In the 1994 election, there were separate ballots for president, for senator, and for congressional deputies. In states with concurrent local elections, there were additional ballots for governor, state representative, etc., as needed.

The voter then marks the ballot by placing an X over the symbol of the appropriate political party. Only the PRI is allowed to use the national colors on the ballot. The PRI symbol consists of the party initials superimposed on the red, white, and green of the Mexican flag. The PAN symbol has the party initials in blue on a blue-bordered white background. The PRD, which was barred from using the national colors, uses a black Aztec sun symbol on a yellow background. Several other parties typically appear on the ballot, none of which has a substantial following. Until 1994, voters were provided with no more than X-shaped dividers set atop a table for marking their ballots, affording little if any secrecy; now, they are provided with portable voting booths that help ensure a secret ballot.

The voter then proceeds to the ballot boxes, depositing each ballot into the corresponding box. In the past, the boxes were opaque. To prevent ballot-stuffing (a practice known as *urnas embarazadas*, or "pregnant boxes"), the boxes are now transparent, so that poll watchers can confirm that they have not been tampered with prior to the opening of the polls. Before leaving the polling station, voters' thumbs are dipped in "indelible" ink, to ensure they will not vote again elsewhere. In the past, that ink was often easily removed; in the 1994 election, it was generally irremovable, but appeared to contain an acid that caused second degree burns.

When electoral fraud occurs and is exposed, it is very difficult to correct. The Constitution bars both the Supreme Court and the National Human Rights Commission from hearing cases involving electoral fraud. All appeals must be presented to the Federal Electoral Tribunal, which consists of two chambers. The upper chamber, which is the electoral court of last resort, consists of the president of the lower chamber and four justices of the Supreme Court.

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<sup>146/</sup> As demonstrated by a team of professors from the Metropolitan University of Mexico City (UAM), however, it is still possible to obtain multiple photo-IDs, for lack of an effective method of cross-checking identification cards. Bazúa, Fernando, *System for the Detection of Multiple Registrants with False Names in the Electoral Register of Mexico (SIDREM)*, feasibility study submitted to Jorge Carpizo, President of the General Council of the Federal Electoral Institute, 14 June 1994, p. 5-6 and illustrations.

Because Supreme Court justices are appointed by the President with the approval of the Senate, both of which are controlled by the PRI, they tend to be highly partial to the ruling party.

Following the 1994 federal election, the Tribunal did reverse the outcome in two congressional districts, one in Jalisco and the other in Michoacán, awarding the seats to opposition parties. In Nuevo León, the state electoral tribunal also reversed the outcome of the mayoral election in Monterrey, delivering city hall to the PAN.<sup>147/</sup> Though these are important precedents, neither involved a challenge to PRI control at either the state or federal level. In the Chiapas gubernatorial election, by contrast, the state electoral authority certified the election of the PRI candidate despite widespread evidence of fraud, and all appeals were dismissed without serious consideration.

Frustration with electoral fraud typically leads to public protests. These are usually nonviolent. At the municipal level, the usual means of dissent is to occupy the town hall. Such occupations, which often last several months, have three possible outcomes. One is a negotiated solution, which usually means the PRI agrees to substitute a mixed-party municipal council for outright control. A second possibility is that the occupants tire of waiting for a solution, and vacate the municipal building of their own accord. The third possible outcome is that state or federal authorities order in the army or police to forcibly remove protesters.

There are two additional variants of this last option. One occurs when PRI partisans attack opposition protesters with the tacit approval of the authorities. The other involves attacks by ostensibly independent political parties and paramilitary groups that are in fact subsidized by the government. In areas where the PRI has become too unpopular to operate in the open, the government has repeatedly supported the development of extreme leftist organizations, to wrest support from the moderate left, especially the PRD. The mildest version of this strategy has been government support for "satellite" parties, such as the *Partido del Frente Cardenista de Reconstrucción Nacional* (Cardenista Front for National Reconstruction, PFCRN). The PFCRN is a Marxist-Leninist party, which through its unswerving loyalty to President Salinas, won

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<sup>147/</sup> "Mexican Election Loses Some Luster as Fraud Is Uncovered," *New York Times* (New York: 27 September 1994), p. A12.

generous public works projects for communities in which it had a significant presence.<sup>148/</sup> In a deliberate attempt to confuse voters, the government allowed the party to change its name to include the term Cardenista, causing many to think they were casting ballots for the PRD's Cuauhtémoc Cárdenas.

In its more extreme form, the PRI strategy of using surrogates to combat the PRD has relied on shadowy, often violent, groups such as *Antorcha Campesina* (Peasant Torch). Peasant Torch would invade PRD rural strongholds by sending in organizers to orchestrate demands for government services -- a new school, piped water, sewers, a paved street.<sup>149/</sup> Whereas similar requests from PRD municipal authorities would be ignored, state and federal governments would deliver the goods wherever Peasant Torch had established a foothold, allowing the latter to expand its base of support. In return, Peasant Torch attacked the government's enemies, murdering independent organizers, and often occupying PRD-led town halls. This strategy peaked under President Salinas, who seated Peasant Torch in the PRI's national convention in 1990.<sup>150/</sup>

At the state level, protests against electoral fraud take several forms. They usually begin with large rallies in the state's larger cities and towns. In some cases this extends to a statewide occupation of dozens of town halls, and to roadblocks on the state's principal roads. In border states such as Chihuahua, protesters typically close the bridges leading to the United States. Another strategy, that has become more widely used in recent years to protest fraud in gubernatorial elections, has been to surround the statehouse, and sometimes the governor's residence, with a wall of humanity, making it impossible for the governor to come and go without police use of force to remove demonstrators.

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<sup>148/</sup> Reding, Andrew "Mexico Under Salinas: A Façade of Reform," *World Policy Journal* (New York: World Policy Institute, Vol. 6, No. 3, Fall 1989), p. 692-693.

<sup>149/</sup> For an example in the Simojovel region of Chiapas, see Avendaño, Amado, "Chiapas Antiopposition Tactic Described," *Tiempo* (San Cristóbal de las Casas: 17 April 1991), p. 1, 4 - as reported in Foreign Broadcast Information Service, *Daily Report: Latin America*, 8 August 1991.

<sup>150/</sup> "The Crumbling of the 'Perfect Dictatorship': Mexico's Democratic Challenge," *World Policy Journal* (New York: World Policy Institute, Vol. 8, No. 2, Spring 1991), p. 266-267. Amnesty International, *Amnesty International Report 1987* (London: 1988), p. 185-186.

Though the techniques used by the opposition to protest fraud are almost always scrupulously nonviolent, they are undeniably confrontational, which frequently leads to violence. Usually, though not always, that violence is directed by police or by *porros* (thugs) against opposition protesters; and since the PRD is the most outspoken opponent of the PRI, PRD sympathizers are the victims in the overwhelming majority of cases. Between July 1988 and early January 1995, the PRD documented 292 cases of what appeared to be politically-motivated homicides of its supporters.<sup>151/</sup>

By contrast, politically-motivated murders of sympathizers of other, more cooperative, opposition parties are very infrequent. As described in the following section, on groups at risk, during the same six-and-a-half-year period only one member of the PAN -- though a very prominent one -- died in what may have been an assassination. Another opposition activist, José Ramón García of the tiny *Partido Revolucionario de los Trabajadores* (Revolutionary Workers Party, PRT), was kidnapped and presumably murdered in December 1988 by state police in Morelos.<sup>152/</sup> Yet because the PRT had just recognized Cuauhtémoc Cárdenas as the legitimate victor of the 1988 presidential race, and García was seized while heading to a meeting of Cárdenas supporters, the motive appeared to have been García's links with the PRD.

Even against PRD sympathizers, however, political repression tends to be selective. Mere membership in the party will not in general entail any serious danger. Unlike some governments that have targeted anyone who belongs to certain groups, government and PRI officials usually target only persons whose actions are seen to jeopardize their ability to maintain control at the local, state, or federal level.

Because the PAN and PRD are strong in different regions of the country, there is a geographical component to patterns of repression and harassment. In much of southern Mexico, it is the PRD that poses the greatest threat to continued PRI rule. That includes Nayarit,

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<sup>151/</sup> Isabel Molina, PRD, Mexico City, interviewed on 5 January 1995. The most recent published tally is 250 murders as of August 1994. Secretaría de Derechos Humanos y Grupo Parlamentario del PRD, *Un sexenio de violencia política* (Mexico City: August 1994), 316 p. The murders that occurred prior to the formation of the PRD are of members and sympathizers of the FDN, precursor to the PRD.

<sup>152/</sup> Americas Watch, *Human Rights in Mexico: A Policy of Impunity* (New York: Human Rights Watch, June 1990), p. 50-51.

Michoacán, Guerrero, Oaxaca, Chiapas, Tabasco, Hidalgo, and Veracruz, the states with the highest numbers of slain PRD sympathizers. Because the PAN poses no threat to the PRI in these states, and actually helps by drawing opposition votes from the PRD, it is unusual for PAN sympathizers in that region to be disturbed in any way.

The PAN, on the other hand, is the primary adversary of the PRI in the Yucatán, in the northern states of Baja California Norte, Baja California Sur, Sonora, Sinaloa, Chihuahua, Coahuila, Durango, and Nuevo León, and in the central states of Jalisco, Guanajuato, and San Luis Potosí. It is in these states that PAN sympathizers run a risk of being harassed, particularly in conjunction with electoral fraud. Because the PRD does not generally pose a threat to the PRI in these states, and helps divide the opposition vote, its sympathizers are usually at lesser risk than elsewhere in the country. Sometimes the government will even intervene on behalf of the PRD, as it did in the August 1991 gubernatorial election in Guanajuato, to ensure the presence on the ballot of PRD leader Porfirio Muñoz Ledo, in hopes of pulling votes from PAN candidate Vicente Fox Quesada.<sup>153/</sup>

There are two exceptions to this general rule, which apply equally to the PRD and the PAN. One is that on the rare occasions (as in recent elections in San Luis Potosí and Durango) when the PAN and PRD form an electoral alliance, all parties to that alliance become viewed as a common threat. One example is the coalition formed by the PAN and PRD for the November 1992 gubernatorial election in the state of Tamaulipas, which borders Texas on the Gulf of Mexico. With the election results in doubt amid charges of massive fraud, a mob burned down the Municipal Electoral Committee offices in Matamoros on November 11. The PAN and PRD protested that PRI thugs had incinerated the locale to destroy the evidence that would have been required to document electoral fraud, but the *Procuraduría General de la República* (Office of the Attorney General of the Republic, PGR) instead blamed opposition activists, arresting 23 of them while dozens more fled across the border into Texas. On December 2, 1994, following a lengthy review, the United States granted political asylum to one of the fugitives, Máximo Barraza, who had been the PAN representative on the Matamoros Municipal Electoral

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<sup>153/</sup> "Que siempre sí: El misterioso caso de Porfirio," *Proceso* (Mexico City: No. 763, 17 June 1991), p. 6-11.

Committee.<sup>154/</sup>

The other exception occurs when either the PAN or PRD are strong in particular municipalities in states in which they are otherwise marginal. An example is the municipality of Zamora, a PAN stronghold in the midst of *cardenista* Michoacán. In such localities, sympathizers of the party that is locally strong may run a risk of repression.

Four states -- Baja California Norte, Chihuahua, Jalisco, and Guanajuato -- are run by PAN governors. In Chihuahua and Jalisco, the PAN also controls the state legislature. That makes claims of political repression emanating from those states improbable except in the case of abuse by federal authorities, such as the Federal Judicial Police.

## **IX. GROUPS AT RISK** <sup>155/</sup>

In general, risks in Mexico are only loosely linked to particular professions, or to political, religious, ethnic, or other group affiliations. Governments -- federal, state, and local -- seldom engage in blanket abuse of groups, with the exception of indigenous peoples and gay men, who are subject to discriminatory treatment by society itself. The overriding risk factor is the extent to which individuals within politically-sensitive groups -- such as opposition parties, labor unions, the mass media, churches, and human rights organizations -- exercise their constitutional rights to dissent and, more specifically, to criticize the government or government officials, or present a serious challenge to the political status quo.

### **A. Members of and Sympathizers with Opposition Political Parties and Their Relatives**

Some of the worst repression has been directed against leaders and supporters of opposition political parties, especially when these threaten continued PRI rule. For several reasons, the PRD has borne the brunt of such repression since its formation in 1989. It is one of

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<sup>154/</sup> "El panista Máximo Barraza obtuvo asilo en Estados Unidos en calidad de perseguido político," *Proceso* (Mexico City: No. 955, 20 February 1995), p. 42-43.

<sup>155/</sup> The following discussion of groups at risk is not intended to be comprehensive. There may be other groups, about which there is little or no documentation, which are at risk of persecution by the government or by societal elements which the government is unable or unwilling to control.

only two parties strong enough to contest PRI rule in many parts of the country (the other being the PAN), and of those two parties it is the one at greatest odds with the PRI. Its leader, Cuauhtémoc Cárdenas, almost overturned the PRI in the 1988 presidential election (the PRI had to alter the returns in order to declare Carlos Salinas president-elect). Finally, because its leaders broke away from the PRI, and espouse its traditional populist and nationalist message, the PRD has been competing for the support of the very sectors (peasants, workers, government employees) that have traditionally provided the PRI with its core support.

Mario Rojas Alba, a former PRD congressman from Morelos who was granted political asylum in Canada after being kidnapped and almost murdered in Cuernavaca, has documented 350 politically-motivated murders between the 1988 presidential election and March 1993.<sup>156/</sup> More than half the victims (179) were PRD activists, including 58 in the state of Michoacán, 46 in Guerrero, 25 in Puebla, 18 in Oaxaca, 15 in Morelos, 7 in the state of México, 3 in Veracruz, 2 each in Nayarit, Zacatecas, and San Luis Potosí, and one in Sinaloa.<sup>157/</sup> Most of the remaining 171 murders were of social activists unaffiliated with any party.

As of early January 1995, the PRD had documented 292 murders of party activists since July 1988.<sup>158/</sup> In a January 1994 report, the *Comisión Nacional de Derechos Humanos* (National Human Rights Commission, CNDH), an agency of the federal government, confirmed the political nature of many of the murders.<sup>159/</sup> As summarized by the U.S. Department of State:

of the 140 cases, 67 resulted in recommendations from the CNDH involving culpability by government authorities. In 18 cases the CNDH did not find government authorities at fault. The CNDH concluded [sic] 22 cases for lack of

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<sup>156/</sup> "Asilo político en Canadá al exdiputado federal morelense Mario Rojas Alba," *Proceso* (Mexico City: No. 846, 18 January 1993), p. 12-15.

<sup>157/</sup> Rojas Alba, Mario, *Las Manos Sucias: Los Derechos Humanos en México en el alba del Tratado de Libre Comercio de América del Norte 1988-1993* (Montreal: 24 June 1993), p. 90, 114-118, 132-133, 158-159, 164, 194-195, 208-209.

<sup>158/</sup> Isabel Molina, PRD, Mexico City, interviewed on 5 January 1995. The most recent published tally is 250 murders as of August 1994. Secretaría de Derechos Humanos y Grupo Parlamentario del PRD, *Un sexenio de violencia política* (Mexico City: August 1994), 316 p.

<sup>159/</sup> Comisión Nacional de Derechos Humanos, *Informe de la Comisión Nacional de Derechos Humanos sobre las 140 quejas presentadas por el PRD* (Mexico City: 31 January 1994), 552 p.

additional information from the complainants, and 18 cases fell outside the CNDH's juridical authority. Three cases were referred to other authorities, and six cases were incorporated into previously existing cases.<sup>160/</sup>

By contrast, the PAN lists only one activist -- 1988 presidential candidate Manuel Clouthier -- as a possible murder for the same period (July 1988 - December 1994).<sup>161/</sup> Clouthier died in a head-on collision with a truck on October 1, 1989, at a time when he was resisting government efforts to get his party to cosponsor an electoral reform that would leave control of elections in the hands of the PRI.<sup>162/</sup> Within two weeks of his death, the PAN, now under the leadership of Luis Alvarez and Diego Fernández de Cevallos, agreed to the measure.<sup>163/</sup>

Victims of extra-judicial execution can range from party leaders to local activists and even relatives of activists:

- On July 3, 1988, three days before the 1988 presidential election, Cárdenas campaign director Francisco Xavier Ovando and his secretary, Román Gil Heráldez, were murdered in downtown Mexico City, after their VW Caribe was intercepted by an unidentified vehicle. Both were shot execution-style in the head. As is frequent in such cases, the government argued they had fallen victim to thieves.<sup>164/</sup> Yet the only item missing was a nationwide list of Cárdenas campaign operatives, many of whom were silent defectors from the PRI.<sup>165/</sup>
- On August 19, 1988, just before the first meeting of the electoral college that declared Salinas president-elect, eyewitnesses saw police in plainclothes detain four youths aged 16 to 18, in a VW. Shortly thereafter, their bodies were discovered in the parked VW, shot in the head with high-powered firearms. Among the victims was

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<sup>160/</sup> U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1993* (Washington D.C.: U.S. Government Printing Office, February 1994), p. 490.

<sup>161/</sup> Herrera, Sandra, Secretaría de Acción Ciudadana, PAN, Mexico City, interviewed on 5 January 1995.

<sup>162/</sup> *Proceso* (Mexico City: No. 675, 9 October 1989), p. 18.

<sup>163/</sup> "Salinas 'ha respetado su palabra'; y el PAN sacó adelante la reforma electoral oficial," *Proceso* (Mexico City: No. 677, 23 October 1989), p. 11-15.

<sup>164/</sup> "Asesinaron al coordinador de Acción Electoral del FDN," *UnoMásUno*, (Mexico City: 4 July 1988), p. 5.

<sup>165/</sup> PRD Human Rights Commission/PRD Parliamentary Group, *The Political Violence in Mexico: A Human Rights Affair* (Mexico City: April 1992), p. 68.

Ernesto Del Arco, son of Luis Del Arco, who had directed Cárdenas' campaign in the Azcapotzalco section of Mexico City. The VW had previously been used to lead a protest against electoral fraud, and a loudspeaker was still mounted on its roof. A year later, two tin workers were sentenced to 40 years imprisonment for the crime, despite evidence that they had been tortured into signing confessions, and despite a dropped credential at the scene of the crime that suggested the killers were Mexico City police.<sup>166/</sup>

- On June 20, 1993, unknown assailants killed Amado Solomón Rodríguez, state PRD leader in the southeastern state of Campeche.<sup>167/</sup>
- On September 6, 1994, Roberto Hernández Paniagua, the PRD leader in the municipality of Angel Albino Corzo, Chiapas, was ambushed and killed by gunmen as he bicycled to work. Hernández had previously received death threats from local PRI *caciques* (rural "chieftains"). As a member of the state PRD commission and local campaign manager, he was credited with a string of PRD municipal victories in the August 21, 1994, state elections.<sup>168/</sup>

Though political murder stands out as the most serious offense, other forms of repression are more common, including arbitrary and false arrest, beatings, kidnappings, death threats, high-speed chases, and staged "accidents."

- In 1989, residents of Aguililla, Michoacán, elected PRD candidate Salomón Mendoza Barajas mayor in a landslide. Within weeks, Federal Judicial Police began making raids on the town, on the pretext of combatting drug trafficking. The police beat and robbed citizens, and raped women. In the course of a follow-up raid on May 5, 1990, the police shot several residents, then were ambushed on the way out. Two policemen were killed. Infuriated, the police made large numbers of arbitrary arrests. When Mayor Mendoza then met with the police to ask them to respect the law and not harm innocent persons, he was himself taken prisoner. Neighbors witnessed police placing marijuana in the mayor's house, in order to fabricate drug charges, and Mendoza was tortured into signing a prepared confession. Then, with more than a hundred fellow-citizens, he was transferred to Mexico City, where he and three others were imprisoned. Human rights groups turned the case into an international embarrassment, causing the CNDH to call for the mayor's release. Mendoza was

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<sup>166/</sup> Ross, John, "Human Rights Cases Haunt Salinas," *Latinamerica Press* (Lima: 4 October 1993), p. 4.

<sup>167/</sup> U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1993* (Washington, D.C.: U.S. Government Printing Office, February 1994), p. 490.

<sup>168/</sup> *Proceso* (Mexico City: No. 932, 12 September 1994), p. 32.

finally released in December 1990, and reinstated as mayor.<sup>169/</sup>

- On the night of November 6, 1992, Tatiana Clouthier, daughter of former PAN presidential candidate Manuel Clouthier, was chased at high speed by a car with smoked-glass windows. Fortunately, Clouthier and a companion were able to find refuge in a roadside eatery. The incident occurred just outside Culiacán, Sinaloa within 36 hours of statewide elections in which 2,500 observers organized by Clouthier were to guard against irregularities. At a news conference, Clouthier drew a parallel to the October 1, 1989, highway accident in the same state that killed her father, and called for a reopening of the investigation into her father's death.<sup>170/</sup>
- On July 25, 1994, just weeks before the August 21, 1994, gubernatorial election in Chiapas, PRD candidate Amado Avendaño was critically injured in an assassination attempt only thinly disguised as a traffic accident. On his way to meet with the PRI governor, Avendaño's Chevrolet Suburban was hit head-on by a Kenworth truck that witnesses said swerved into his lane on a straight stretch of highway. Three of Avendaño's aides were killed on impact. Avendaño himself was critically injured, but later recovered all but part of his eyesight, which remains impaired from the crash. The truck, a tractor without a trailer, was operating without license plates in a state under military alert, with frequent army checkpoints. The driver fled in a car that had been following the truck. Though he later surfaced in Mexico City, he was never charged with a crime, and the government maintained, against all the evidence, that the incident was nothing more than a traffic accident.<sup>171/</sup>

## **B. Independent Labor Leaders and Lawyers**

Because organized labor has traditionally been one of the bulwarks of *presidencialismo* and the PRI, the government is especially sensitive to efforts to wrest control of labor unions from loyalist forces. Since the advent of the de la Madrid and Salinas presidencies, with their emphasis on attracting foreign investment by maintaining lower, more competitive, wages, the perceived imperative for controlling the labor movement has become even stronger. Arsenio Farrell,

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<sup>169/</sup> Reding, Andrew, "Taking Away City Hall: Reform Brings Reprisal in a Mexican Town," *The Texas Observer* (Austin, TX: Vol. 82, No. 18, 16 September 1990), p. 8-10.

<sup>170/</sup> Americas Watch, *Briefing Paper on the Intimidation of Activists in Mexico* (New York: Human Rights Watch, October 1993), p. 17.

<sup>171/</sup> Human Rights Watch/Americas, *Mexico at the Crossroads: Political Rights and the 1994 Presidential and Congressional Elections* (New York: August 1994), p. 20-21. *Proceso* (Mexico City: No. 926, 1 August 1994), p. 39, 41.

Secretary of Labor under both presidents, had the greatest staying power of any cabinet member precisely because of his cavalier attitude about circumventing labor regulations enacted by more populist presidents. According to a report prepared by the U.S. Embassy in Mexico City:

Farell has maintained his reputation as a formidable labor opponent. He has maintained pressure on the labor sector in an effort to hold the line on wage demands...Farell has not hesitated in declaring a number of strike actions illegal, thus undercutting their possibility for success.<sup>172/</sup>

In general, repression of independent labor organizing has been less violent than repression of opposition political parties, because maintaining control over labor is easier than maintaining control over elections to political office. Union elections are not nearly as closely watched by journalists, human rights activists, and foreigners as are general elections. This lack of attention enables retention of undemocratic procedures. It is still common practice to compel workers to vote through an open show of hands, usually in the presence of company management. Even when reformers manage to win without a secret ballot, their election must still be certified by the ministry of labor, which typically finds or manufactures a technicality to deny recognition. Any attempt by an unrecognized union leadership to call a strike is then countered by an official declaration that the strike is "nonexistent," after which security forces are summoned to "restore order." Illegal strikes then become pretexts for terminating labor contracts, and firing dissident labor leaders and their supporters.<sup>173/</sup>

Examples of repression of independent labor organizers are provided in the section on economic, social and cultural rights (see p. 28-31, above). Labor lawyers are also at risk.

- When Julio Macossay, a Yucatán attorney, tried to help workers at the Fernández poultry farms form an independent union in 1990, he was imprisoned with four union activists. The men were released two months later, after agreeing to dissolve the independent union, terminate Macossay's relationship with the union, and allow the firing of all union members. Several months later, on August 8, 1990, two men beat

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<sup>172/</sup> *Mexican Labor Trends: Annual Labor Report for Mexico for 1988 to mid-1990*, prepared by the U.S. Embassy in Mexico City, as quoted in Levinson, Jerome, "Unrequited Toil; Denial of Labor Rights in Mexico and Implications for NAFTA," *North America Project Special Report #3* (New York: World Policy Institute, April 1993), p. 6-7.

<sup>173/</sup> Levinson, Jerome, "Unrequited Toil: Denial of Labor Rights in Mexico and Implications for NAFTA," *North America Project Special Report #3* (New York: World Policy Institute, April 1993), p. 5-10.

Macossay with a lead pipe, threatening to kill him.<sup>174/</sup>

- At the Modelo Brewery, which produces Corona beer for export to the United States, 5200 workers went on strike on February 15, 1990, for better pay, benefits, and working conditions. The next day, the government declared the strike "non-existent," allowing the brewery to fire strikers, withdraw recognition of the union, and terminate the union contract. Fidel Velásquez, head of the PRI-affiliated CTM, backed the government declaration and the firings, and organized a replacement union on March 16, which was immediately certified by Ministry of Labor. When workers tried to challenge the action in court, the judge required the posting of a \$350,000 bond for the losses the strike could cost the brewery, then ruled in favor of the government on March 12. Making no effort to hide his partiality, Secretary of Labor Farrell denounced "those who penetrate the labor movement, not to protect workers, but to use them in their deluded quest for power," a reference to the union's use of PRD-associated legal counsel.<sup>175/</sup>

### C. Indigenous Peoples

In its ethnic origins, Mexico is a predominantly indigenous nation. About 60 percent of the population is classified as mestizo ("mixed" indigenous-Spanish). Another 30 percent is indigenous or predominantly indigenous. Only nine percent is white or predominantly white.<sup>176/</sup> The indigenous character of Mexico is reflected in the wide use of the adjective *Azteca*, as in Aztec Television, the Aztec Stadium, and references to national sporting teams in international competition. Cuauhtémoc, the Aztec leader who resisted the Spaniards until his capture and execution, is a paradigmatic national hero in Mexican schoolbooks.

Despite the veneration of a glorious indigenous past, however, present-day indigenous peoples suffer from repression, poverty, and discrimination caused by racist attitudes that are easily observed but seldom acknowledged as such. The whiter the shade of skin color, the closer Mexicans come to the ideal of good looks reflected in commercial advertising. In a country where less than one in ten persons is white, the overwhelming majority of faces on billboards and

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<sup>174/</sup> Americas Watch, *Briefing Paper on the Intimidation of Activists in Mexico* (New York: Human Rights Watch, October 1993), p. 7.

<sup>175/</sup> *Proceso* (Mexico City: No. 698, 19 March 1990), p. 10-15.

<sup>176/</sup> U.S. Central Intelligence Agency, "Mexico," *CIA World Factbook 1993* (Washington, D.C.: 1993), p. 307.

in television and magazine advertising are white. This is no accident: it is commonplace in Mexican society to hear Amerindians described as *feo* (ugly).<sup>177/</sup>

The effect of racial prejudice is anything but skin-deep, as it affects the relative valuation of human life. Indigenous persons are disproportionately likely to be killed or tortured by security forces under the most varied of pretexts, and far less likely to get a prompt and fair trial.

According to the U.S. Department of State:

[a] study by the National Indigenous Institute (INI) found that courts had not yet sentenced 70 percent of indigenous prisoners, half of whom the authorities held in pretrial detention for longer than allowed by law.<sup>178/</sup>

Such attitudes and treatment reflect the persistence of social structures inherited from the time of the Spanish conquest. Almost all the country's most prominent figures -- from presidents to bishops to literary figures and business magnates -- are drawn from the ranks of the descendants of the conquerors, or from subsequent immigrants, and could easily be mistaken for Europeans. Conversely, there is a high correlation between poverty and dark skin color.

From the time of the conquest, European and indigenous concepts of landholding have been in conflict, as they have elsewhere in the Americas. Europeans have favored outright ownership by individuals, whereas indigenous peoples have favored landholding by communities. The greatest difference between Mexico and the United States in this respect is that in Mexico indigenous peoples were far more numerous to begin with, and have remained a sizable portion of the population. The Mexican Revolution was in large measure a revolt by indigenous peoples intent on restoring traditional landholding patterns. In much of rural Mexico, particularly in southern Mexico, the conflict over land continues unabated.

In Chiapas, the conflict has boiled over into outright insurrection among segments of the Mayan population. Yet indigenous peoples throughout Mexico, and particularly those who lead

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<sup>177/</sup> Reding, Andrew, "Mexico's Problem With Racism," *Journal of Commerce* (New York: 3 February 1994), p. 6A.

<sup>178/</sup> U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, February 1995), p. 447. The INI (*Instituto Nacional Indigenista*) is an agency of the federal government.

efforts to reclaim land, are subject to repression by the army and police, including torture and extrajudicial execution. Even when state security forces are not directly involved, the federal, state, and local governments tolerate violence -- including murder -- by private gunmen (*guardias blancas*, "white guards") hired by growers, ranchers, timber barons, and local PRI bosses (*caciques*, literally "chieftains"). Almost 40 percent of the recommendations issued by the CNDH between May 1993 and May 1994 involved the five southern states of Puebla, Chiapas, Oaxaca, Guerrero, and Michoacán, the states with the highest percentage of Amerindians and the most acute land conflicts.<sup>179/</sup>

Immediately following are representative examples of violations of the human rights of indigenous peoples:

- In 1768, the *tzotzil* community now known as Venustiano Carranza in the state of Chiapas purchased 69,720 hectares of land from the Spanish crown. Though the land was subsequently seized by powerful land barons, in 1965 President Gustavo Díaz Ordaz ordered 50,852 hectares returned to the *tzotziles* under the constitutionally-mandated land reform program. Five years later, with the transfer still pending gunmen murdered Manuel Gómez Ortega, presumably for his leadership role in securing the presidential order. The following year, gunmen killed a non-*tzotzil* teacher who had agreed to represent the community on the land claim. In 1973, they killed three more members of the community, and in 1974 made three more "disappear." Finally, in November 1974, 46,968 hectares were delivered to the *tzotziles*. In August 1975, the gunmen struck again, killing Bartolomé Martínez Villatoro, the community's land claims representative, and his driver. Failing to thereby disrupt the land transfer, the *caciques* drew on their PRI connections to bring in the army, which assaulted the community in May 1976, killing two *tzotziles* and detaining hundreds more. The *tzotzil* land representatives remained incarcerated for two years, and were released only after having switched sides. Their return divided the community. In 1984, the *caciques'* gunmen murdered the leader of the co-opted faction, causing the latter group to believe that he had been murdered by his *tzotzil* adversaries, and to respond by ambushing and murdering another nine members of the *tzotzil* community. The *tzotziles* have remained internally divided ever since.<sup>180/</sup>
- At least 13 inhabitants of La Trinidad Yaveo, a *zapotec* and *mixe* community in the

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<sup>179/</sup> Acosta, Mariclaire, "El Sexenio salinista y los Derechos Humanos," *Reforma* (Mexico City: No. 14, 17 July 1994). Mariclaire Acosta is the president of the Mexican Commission for the Defense and Promotion of Human Rights.

<sup>180/</sup> "Despojo, crímenes y desapariciones, historia de una comunidad tzotzil," *Proceso* (Mexico City: No. 935, 3 October 1994), p. 39.

southern state of Oaxaca, have been killed over the past 20 years in the course of trying to defend the community's lands. In July 1987, privately-hired gunmen murdered Francisco Yescas, the *representante de bienes comunales* selected by the community to represent it before the Agrarian Reform Agency. In 1989, gunmen killed Zacarías Patricio Márquez, for the same reason. Though the murderers were identified, they were never brought to justice. Yet when local landowner Francisco López was murdered by unknown assailants in 1990, eight community members were arrested and sentenced to 25 year prison terms. Then on January 25, 1992, members of the State Judicial Police and the Preventive Police arrested another six members of the community without a warrant. A seventh, Tomás Diego García, was executed on the spot, and police stuck a gun in the mouth of five-year-old Misael García Santiago to silence his cries as his father was hauled off into the night. Five of the six detainees were then tortured into signing confessions of having participated in the 1990 murder of the landowner.<sup>181/</sup>

- On October 17, 1992, a Mexican 2nd lieutenant was shot dead while taking part in a military sweep against marijuana growers near Baborígame, in the state of Chihuahua. The suspect, a *tepehuan* man alleged to have been guarding a marijuana field, evaded capture. The Mexican army retaliated by going on a rampage against six *tepehuan* communities. On October 26, soldiers entered Arroyo de la Huerta. They beat three men with kicks and rifle butts, and forced alcohol up the noses of two boys, trying to discover the whereabouts of the fugitive. They also burned the home of the suspect's brother. On October 27, soldiers ransacked homes and stole money in Palos Muertos. They beat ten men in the course of interrogating them, and humiliated an old man by making him strip in front of villagers. In Algarrobos, where troops arrived on October 28, one woman, Refugio Quiñones Carrillo, reported having her hands tied behind her back for eight days. Soldiers later coerced witnesses in an attempt to keep them from describing what they had seen. When the Chihuahua-based Commission for Solidarity and Defense of Human Rights (COSYDDHAC) held a public hearing on November 23, soldiers threatened to charge witnesses with collusion with drug traffickers.<sup>182/</sup>
- On January 1, 1994, *zapatistas* took control of the town of Ocosingo, Chiapas. The following day, the town was retaken by the Mexican army. On January 6, Tim Golden of the *New York Times* described what he encountered: "At least a dozen rebels had been killed in and around the Ocosingo market. Six were found lying face down, shot at close range in the back of the head, their hands behind them and short

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<sup>181/</sup> Amnesty International, *Human Rights Violations against Members of the Mixe and Zapotec Indigenous Community of La Trinidad Yaveo, Oaxaca* (London: AMR 41/01/92, March 1992), 10 p.

<sup>182/</sup> Minnesota Advocates for Human Rights, "Civilians at Risk: Military and Police Abuses in the Mexican Countryside," *North America Project Special Report #6* (New York: World Policy Institute, August 1993), p. 4-10.

lengths of nylon rope beside them. One still had his hands tied."<sup>183/</sup> Following an investigation, the *Procuraduría General de la República* (Office of the Attorney General of the Republic, PGR) described only four bodies, and sought to exonerate the army by arguing that three were shot with weapons not used by the armed forces. A subsequent investigation by forensic specialists from Physicians for Human Rights determined that the PGR "either autopsied the wrong bodies or had never seen the bodies from the Ocosingo market."<sup>184/</sup> Confronted with the new evidence, the PGR, the *Comisión Nacional de Derechos Humanos* (National Human Rights Commission, CNDH), and the military prosecutor agreed that five individuals had been summarily executed with their hands bound in the Ocosingo marketplace, but again exonerated the army.<sup>185/</sup>

- On June 4, 1994, three *Tzeltal* women, María Teresa Méndez Santiz, aged 20, and her sisters Cristina Méndez Santiz, 18, and María Méndez Santiz, 16, were detained by soldiers at a roadblock outside Altamirano, Chiapas. They were accused of participating in the brief zapatista takeover of Altamirano in early January 1994. While in custody, the sisters were beaten and raped by about ten soldiers. On June 30, local human rights organizations filed a complaint with the *Ministerio Público* (Public Ministry -- equivalent to the U.S. Department of Justice). The case was transferred to military jurisdiction without notifying the young women's attorneys. Since the army had already rejected the allegations, that made the possibility of a fair hearing, let alone bringing those responsible to justice, exceedingly remote.<sup>186/</sup>
- On September 8, 1994, police and vigilantes hired by local landowners attacked the Plan del Encinal community in Ixhuatlán de Madero in the state of Veracruz. The raiders evicted the residents and seized two community leaders, whose mutilated bodies were later found in a nearby river. They had been shot in the head and chest at close range. As reported by the U.S. Department of State, "Veracruz state officials blocked an attempt by a team of forensic experts and nongovernmental organizations to conduct autopsies on the victims."<sup>187/</sup>

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<sup>183/</sup> "As Mexican Army Pursues Rebels, Fears Arise Over Rights Abuses," *New York Times* (New York: 6 January 1994), p. A12.

<sup>184/</sup> Physicians for Human Rights and Human Rights Watch/Americas, *Waiting for Justice in Chiapas* (Boston and New York: December 1994), p. 72.

<sup>185/</sup> Physicians for Human Rights and Human Rights Watch/Americas, *Waiting for Justice in Chiapas* (Boston and New York: December 1994), 75-76.

<sup>186/</sup> Amnesty International, *Soldiers Rape Three Tzeltal Women: Investigations Transferred to Military Courts* (London: AMR 41/19/94, October 1994), 3 p.

<sup>187/</sup> U.S. Department of State, "Mexico," *Country Reports on Human Rights Practices for 1994* (Washington, D.C.: U.S. Government Printing Office, February 1995), p. 445.

In April 1994, the UN Human Rights Committee expressed "concern about the situation of indigenous populations" in Mexico:

Article 27 of the Constitution concerning agrarian reform is often implemented to the detriment of persons belonging to such groups. The delay in resolving problems relating to the distribution of land has weakened the confidence of these populations in both local and federal authorities. Moreover, these persons are subject to special laws, particularly in Chiapas, which could create a situation of discrimination.<sup>188/</sup>

#### **D. Clergy and Laity Who Defend Indigenous Populations or Support Liberation Theology**

For most of post-colonial Mexican history, the primary challenge to the legitimacy of the government has come from conservative sectors of the Catholic Church, who entered into alliance with royalists and landholders to try to hold back reform. Their defeats led to the introduction of anti-clerical provisions in both the liberal Constitution of 1857 and the revolutionary Constitution of 1917. Conservative resistance finally collapsed altogether after a last-ditch effort to overturn the provisions through the Cristero Rebellion of the late 1920s. Since then, conservative Catholics have made their peace with the government, to the point that by the 1990s, President Carlos Salinas decided to amend the constitution to remove the anti-clerical provisions, settling on a separation of church and state more comparable with the U.S. Constitution.

As a consequence of the reforms to the Catholic Church initiated by Pope John XXIII during the 1960s, the church itself developed a more liberal, populist wing. In Latin America, following the Medellín (Colombia) and Puebla (Mexico) conferences, that wing gave rise to a new theology, the theology of liberation. From contact with the sufferings of the poor, clergy, including priests, nuns, and bishops, began embracing liberation theology as a tool for improving the lot of their charges.

In Mexico, liberation theology predictably took hold in regions dominated by indigenous populations suffering both from poverty and discrimination. Among those regions are the Sierra Tarahumara of Chihuahua, the states of Oaxaca and Chiapas, and to a lesser degree the states of

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<sup>188/</sup> UN Human Rights Committee, *Comments of the Human Rights Committee* (Geneva: CCPR/C/79/Add.32, 19 April 1994), p. 3.

Michoacán, Guerrero, Morelos, and Veracruz. Several bishops, including Archbishop Bartolomé Carrasco of Oaxaca, Bishop Arturo Lona of Tehuantepec, and Bishop Samuel Ruiz of San Cristóbal de las Casas, openly support liberation theology.

As bishops, priests, and nuns have formed human rights offices and organizations to publicize and challenge violations of human rights, they have confronted the government with new challenges from the Church, this time from its left flank. The government has reacted by repairing its old rift with conservative forces (by removing anti-clerical provisions of the Constitution), then by entering into a tacit agreement to jointly repress the Church's left wing.

Using his powers of appointment, Pope John Paul II has acted to limit manifestations of liberation theology. Sometimes that has meant replacing deceased liberal bishops like José Llaguno of the Tarahumaras in Chihuahua, and Sergio Méndez Arceo of Cuernavaca, with conservative clerics dedicated to dismantling their work. In other cases, the pope has either taken or sanctioned moves against living bishops. In the case of Archbishop Bartolomé Carrasco of Oaxaca, for example, the pope appointed another bishop to take charge of the archdiocese while leaving Carrasco with little more than the title. Formal proceedings to remove Bishop Samuel Ruiz from the diocese of San Cristóbal de las Casas in Chiapas were suspended only when the bishop was made a mediator in the conflict between the *zapatistas* and the Mexican government.

The government, for its part, has incarcerated and expelled troublesome clerics, and done nothing to curtail death threats against activist bishops and priests:

- At 9 p.m. on November 13, 1987, twenty heavily armed assailants burst into the diocesan residence of Bishop Arturo Lona Reyes of Tehuantepec, Oaxaca, terrorizing priests and nuns at gunpoint for eight hours in a vain search for the bishop, who was away. The culprits, who almost certainly enjoyed the blessing of local officials at odds with the bishop's activist work among the region's indigenous peoples, were never apprehended.<sup>189/</sup>
- On July 22, 1990, Father Marcel Rotsaert, a Belgian priest and advocate for Guatemalan refugees in Chiapas, was detained by agents of the State Judicial Police and the federal Secretariat of Government. During several hours of incommunicado detention in Tuxtla Gutiérrez, he was accused of leading land occupations by Mayan

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<sup>189/</sup> *Iglesias* (Mexico City: No. 49, January 1988), p. 8.

inhabitants of the region. On July 31, he was deported to Belgium.<sup>190/</sup>

- On September 18, 1991, Father Joel Padrón, a parish priest among the Mayans of Simojovel, Chiapas, was arrested without a warrant by State Security Police who had been shadowing his movements for the past year. He was accused of conspiracy to organize a land occupation, of plundering, and of possession of unauthorized firearms. Though the charges were never substantiated, Padrón was held in a maximum-security cell at Cerro Hueco prison in Tuxtla Gutiérrez for 49 days, while Governor Patrocinio González Garrido tried to use him as a bargaining chip with Bishop Samuel Ruiz. As a condition of the priest's release, the governor asked the bishop to formally condemn the taking of land by peasants, to declare that there are no human rights violations in the state, and to transfer Padrón to another state.<sup>191/</sup> Bishop Ruiz refused, but Padrón was nonetheless released.
- On April 8, 1994, *Summa*, a national newspaper controlled by Mexico's powerful Televisa consortium, accused Jesuit priest Jerónimo Hernández López of being Subcommander Marcos, the masked *zapatista* rebel leader in Chiapas. On April 21, the Jesuits filed a charge of defamation against *Summa*, but the State Attorney General declined to pursue the case. On July 9, the Jesuits appealed to the government's *Comisión Nacional de Derechos Humanos* (National Human Rights Commission, CNDH). Shortly thereafter, on August 9, flyers were posted around Mexico City threatening the lives of Jesuit priests: "JESUITS! ENOUGH! NO MORE BETRAYAL OF YOUR COUNTRY. In El Salvador, thousands of indigenous persons died before the Jesuits, those responsible for the massacre. IN MEXICO THE JESUITS WILL DIE FIRST." The flyers were signed by the "Squad for the Defense of the Catholic Faith and the Peace of Mexico."<sup>192/</sup>

### **E. Journalists**

Dozens of journalists have been murdered in Mexico over the past decade, most of whom had been investigating corruption and links to drug trafficking. At least as alarming as the murders themselves is the lack of any conclusive investigations by federal and state authorities.

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<sup>190/</sup> Americas Watch, *Unceasing Abuses: Human Rights in Mexico One Year after the Introduction of Reforms* (New York: Human Rights Watch, September 1991), p. 29.

<sup>191/</sup> Minnesota Advocates for Human Rights, *Conquest Continued: Disregard for Human and Indigenous Rights in the Mexican State of Chiapas* (Minneapolis, MN: October 1992), p. 24-27.

<sup>192/</sup> Minnesota Human Rights Advocates, *Harassment of Human Rights Defenders in Mexico* (Minneapolis, MN: August 1994), p. 4-5, 9.

These concerns led the UN Human Rights Committee to issue a strongly-worded statement in March 1994: "The Committee deplores the gross violation of both the right to life and the right to freedom of expression constituted by the frequent murder of journalists, which has reached alarming proportions."<sup>193/</sup>

- On April 20, 1988, Héctor Félix Miranda, co-editor of the weekly newspaper *Zeta* of Tijuana, was shot to death in his car. The murderers were later identified as security guards from the Agua Caliente Racetrack, owned by Jorge Hank Rhon, a wealthy businessman and target of Miranda's muckraking columns. One of the security guards, who was also Hank's personal bodyguard, was seen cashing a \$10,000 voucher at the racetrack on the day of the murder. Yet Jorge Hank is the son of Carlos Hank González, a PRI power-broker who in December 1988 was named Secretary of Tourism by incoming president Carlos Salinas. Because of the familial tie to the elder Hank, Jorge Hank's involvement in the murder of Miranda was never seriously investigated.<sup>194/</sup>
- On June 15, 1990, four men in a car with a radio antenna and no license plates intercepted the secretary of Jorge G. Castañeda, a prominent political pundit, journalist, and co-founder of the *Acuerdo por la Democracia* (Accord for Democracy, ACUDE), a group formed to combat electoral fraud. Brandishing automatic weapons, the men told the secretary to warn Castañeda he would be killed if he did not stop writing articles critical of President Salinas. On June 18, the secretary tentatively identified one of her assailants, an agent of the Federal District Judicial Police, from a photograph. She was then intercepted a second time and warned that her own life would be in danger if she persisted in trying to identify her assailants.<sup>195/</sup>
- On July 3, 1991, medical doctor and political columnist Víctor Manuel Oropeza (*Diario de Juárez*, *Diario de Chihuahua*) was stabbed to death in his office in Ciudad Juárez, Chihuahua. The assailants did not touch almost \$2000 in cash, nor any other item of value. Oropeza had been one of three hunger strikers who in 1986 protested electoral fraud in the Chihuahua gubernatorial election. He had since been a persistent

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<sup>193/</sup> UN Committee on Human Rights, *Comments of the Human Rights Committee* (Geneva: CCPR/C/79/Add.32, 18 April 1994), p. 3.

<sup>194/</sup> Murray, William, "To the Left of Zero: A Reporter at Large," *The New Yorker* (New York: 31 July 1989), p. 57-66.

<sup>195/</sup> "Government Critics Harassed in Mexico, Setting Off a Storm," *New York Times* (New York: 21 June 1990). Americas Watch, *Unceasing Abuses: Human Rights in Mexico One Year after the Introduction of Reforms* (New York: Human Rights Watch, September 1991), p. 31. Reding, Andrew, "Link Mexico Trade to Controls on Abuse," *Dallas Times Herald* (Dallas, TX: 28 June 1990), p. A21.

critic of both the "illegitimate" state government and of the Federal Judicial Police in his columns.<sup>196/</sup> The federal Attorney General sent a special envoy to Chihuahua to take charge of the politically sensitive case. Rather than try to apprehend the murderers, the envoy instead tried to portray the victim as a homosexual, then accused the deceased of selling psychotropic drugs. When neither accusation took hold, he had two persons tortured into confessing they murdered Oropeza in the course of a burglary. The accused later denied the confessions and described the tortures to human rights groups.<sup>197/</sup>

- On June 6, 1994, unknown assailants murdered Jorge Martín Dorantes, editor of *El Crucero*, a weekly newspaper published in Cuernavaca, the capital of the state of Morelos. Martín Dorantes had been a prominent critic of local officials. To date, there have been no arrests.<sup>198/</sup>

## **F. Human Rights Activists**

Independent human rights activists are subject to multiple forms of harassment and repression. The most common of these are death threats delivered in writing or by telephone. It is also commonplace for the homes of rights activists to be broken into, but to have nothing of value removed. The intent in these cases seems to be to unnerve those affected, and persuade them to show restraint in their criticisms of the government, or of powerful officials. For example:

- In October 1992, María Teresa Jardí, then director of the human rights office of the Catholic Archdiocese of Mexico City, received three written death threats, exhibiting details about her family life that suggested police surveillance. In her previous position as the Attorney General's special assistant for human rights, Jardí had found that the two individuals charged with the July 1991 murder of Dr. Víctor Manuel Oropeza in Ciudad Juárez had been tortured into signing confessions. Frustrated by

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<sup>196/</sup> "El columnista político Víctor M. Oropeza denunció en Ciudad Juárez a funcionarios corruptos hasta que fue asesinado," *Proceso* (Mexico City: No. 766, 8 July 1991), p. 12-15.

<sup>197/</sup> "Tres veces cambió la Procuraduría de la República su versión sobre el asesinato de Oropeza," *Proceso* (Mexico City: No. 768, 22 July 1991), p. 24-27.

<sup>198/</sup> Committee to Protect Journalists, *Record 72 Journalists Killed in the Line of Duty in 1994* (New York: 3 February 1995), p. 7.

her inability to eliminate such practices, she resigned.<sup>199/</sup>

- Prior to the 1994 federal elections, Sergio Aguayo, director of the Mexican Academy of Human Rights, received death threats that forced him to have to be accompanied by bodyguards until after the elections. Aguayo was at the time also directing the *Alianza Cívica* (Civic Alliance), a nationwide coalition of human rights and pro-democracy groups formed to observe the elections.

Sometimes, government officials go further, filing charges against prominent critics of their human rights performance. In April 1993, Víctor Clark Alfaro, director of the Tijuana-based Binational Center for Human Rights, published a report describing how State Judicial Police officials were selling credentials to drug smugglers. Shortly thereafter, the public prosecutor in Baja California Norte filed five criminal counts of slander against Clark, each of which could have subjected him to two years imprisonment in the very jails where he had previously documented the routine use of torture. The charges were eventually dismissed, but only after human rights groups brought international attention to the case. Even so, according to Americas Watch, his offices have been broken into, perhaps by the state police *madrinas* that have kept them under surveillance, and both Clark and Center staff members have received death threats.<sup>200/</sup>

In extreme cases, human rights advocates have been murdered after receiving death threats. Such was the case with Norma Corona Sapiens, president of the nongovernmental Commission in Defense of Human Rights in the state of Sinaloa. Corona's investigation of the brutal killings of a Mexican lawyer and three Venezuelan students led to evidence that they had not been murdered by drug traffickers, as claimed by the police, but by the police themselves. The subsequent death-squad-style slaying of Norma Corona on May 21, 1990, shocked the nation, and hurt Mexico's international image just as President Salinas was seeking approval for the North American Free Trade Agreement (NAFTA). Responding to this crisis, Salinas formed the National Human Rights Commission. Though the government continued to claim the assassination of Norma Corona was the work of drug traffickers, it was eventually proven that her

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<sup>199/</sup> Americas Watch, *Briefing Paper on the Intimidation of Activists in Mexico* (New York: Human Rights Watch, October 1993), p. 3.

<sup>200/</sup> Americas Watch, *Briefing Paper on the Intimidation of Activists in Mexico* (New York: Human Rights Watch, October 1993), p. 4.

murder had been ordered by the state commander of the Federal Judicial Police, who was then imprisoned. Corona's predecessor as president of the Commission, attorney Jesús Michel Jacobo, had been murdered previously, on December 16, 1987, presumably by the police.<sup>201/</sup>

### **G. Gay Men, Transvestites, and AIDS Activists**

Although Mexican law does not list homosexual behavior between consenting adults as a criminal offense, the government has tolerated extrajudicial executions of gay men and transvestites by local police forces and vigilantes, and has harassed gay activists who criticize government policies.

As with other social groups, gay individuals who engage in serious criticism of the authorities are subject to repression. The arrest, beating, and imprisonment on false charges of two men renowned for their AIDS-prevention work among male prostitutes in Mexico City is a case in point. On June 13, 1992, Gerardo Rubén Ortega Zurita criticized the Mexican government in a television interview for its treatment of gay issues. Three days later, he was arrested with an associate, José Cruz Reyes Potenciano, by Federal District Judicial Police. The two men were charged with the rape of a minor, even though a forensic examination of the alleged victim found no evidence of rape, and medical examinations of the defendants documented injuries consistent with their accounts of beatings by the police. Despite this evidence, both men were sentenced to 13 years and nine months' imprisonment. In June 1993, Amnesty International classified the two men as possible prisoners of conscience.<sup>202/</sup> They were released in July 1993 and cleared of all charges.<sup>203/</sup>

In addition to the hazards of activism, openly gay men face a far more serious threat: the very real possibility of being murdered by police and vigilantes. From Mexico City and

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<sup>201/</sup> Americas Watch, *Human Rights in Mexico: A Policy of Impunity* (New York: Human Rights Watch, June 1990), p. 19-22.

<sup>202/</sup> Amnesty International, *Mexico: Human Rights Violations against Gay Activists* (London: AMR 41/03/93, June 1993), 2 p.

<sup>203/</sup> Amnesty International, *Breaking the Silence: Human Rights Violations Based on Sexual Orientation* (New York: February 1994), p. 21.

Guadalajara to Chiapas, dozens of gay men have been murdered in recent years. In many instances, the murders were carried out with firearms reserved for use by the army and police. There have been no conclusive investigations, and none of the murderers have been convicted:

- On July 13, 1992, the bodies of three gay professionals were found in an apartment in Mexico City. Two of the victims were medical doctors -- René de la Torre González and Francisco Estrada Valle. Estrada, who was a founder of AVE of Mexico, appeared regularly on television as a spokesperson for the fight against AIDS. The third victim was a schoolteacher, Javier Rivero Meléndez. All had been gagged, stabbed, and strangled. On the same day, police discovered the bodies of two other gay men in an apartment in another section of the city. Later in the week, a sixth gay man was found murdered in yet another apartment. Police described the victims as "people with strange habits" and "somasochists," and tried to portray the murders as crimes of passion following orgies, or as "homosexual vendettas" by former lovers. When this proved unpersuasive, police began suggesting the motive was money.<sup>204/</sup> In August 1994, the National Human Rights Commission, an agency of the federal government, issued a report condemning the handling of the case. It pointed to unexplained delays and failures to question obvious witnesses and pursue important leads, such as an assault and death threat received by Estrada only days before he was murdered.<sup>205/</sup>
- On June 18, 1992, a young transvestite was beaten to death in Oaxaca; on August 9, 1992, two gay men were found tied up and shot to death in Guadalajara.<sup>206/</sup>
- Between June 1991 and January 1993, fifteen gay men were murdered in Tuxtla Gutiérrez, Chiapas. Most of the killings were carried out with high-caliber weapons reserved by law for the exclusive use of the Mexican army and the judicial police.<sup>207/</sup> Moreover, the few arrests made were of men who were almost certainly innocent. Martín Ramón Moguel López was detained in November 1992 and forced to sign a confession after undergoing four days of torture. There is no evidence of culpability other than the confession itself, and an eyewitness denies Moguel was involved. Another suspect, Carlos Cruz Bautista, was detained solely on the word of the taxi driver who picked up one of the victims before he was killed, and who may have been

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<sup>204/</sup> "Mexican Activists Demand Full Investigation of Murders of Gay Men," *The Advocate* (25 August 1992), p. 29.

<sup>205/</sup> International Gay & Lesbian Human Rights Commission Action Alert, September-October 1994.

<sup>206/</sup> International Gay & Lesbian Human Rights Commission, *Anti-Gay Violence Continues in Mexico: Gay Leader Assassinated* (San Francisco: 17 February 1993).

<sup>207/</sup> "Psicosis en Chiapas por la cacería de homosexuales," *Proceso* (Mexico City: No. 852, 1 March 1993), p. 26.

involved in the murder.<sup>208/</sup>

- On February 6, 1993, Neftalí Ramírez Ruiz, vice-president of the Grupo Gay Travesti, was gunned down from a moving vehicle on the main avenue of Tuxtla Gutiérrez, capital of the state of Chiapas. Ramírez Ruiz had been pressing for an investigation into the murders of gay men in Tuxtla Gutiérrez.<sup>209/</sup>
- In late April 1994, unknown assailants beat Raymundo Figueroa Pinto to death in his home in Comitán. On June 24, special prosecutor Jorge Gamboa Borraz, who had been appointed in April to investigate previous murders of gay men, resigned complaining he had received no support from state officials.<sup>210/</sup>

The rash of murders in Chiapas began after the promulgation of a new public health law in October 1990 by Governor Patrocinio González Garrido, which forbade public exhibitions of transvestism.<sup>211/</sup> In August 1992, in the midst of the string of killings in Chiapas, Governor González contributed further to tensions by stating that "the gay community is unnatural, and violates all concepts of ethics, hygiene, and normality."<sup>212/</sup>

In February 1993, the Human Rights Department of the Archdiocese of Mexico City stated:

We have strong evidence that makes us believe this [anti-gay] campaign has been waged by various police corporations, with the possible involvement of the army. The assassinations almost all take the same form...The shootings are done with expert marksmanship and using high-caliber weapons, such as 9 millimeter (theoretically only issued to the army), 38 super and 45 caliber (issued to judicial police). At least one of the victims was administered a *coup de grace*...The homicides in Mexico City also bore the professional stamp of police or military

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<sup>208/</sup> Jardí, María Teresa, *Action Letter from the Department of Human Rights of the Archdiocese of Mexico City* (Mexico City: 13 February 1993).

<sup>209/</sup> "Psicosis en Chiapas por la cacería de homosexuales," *Proceso* (Mexico City: No. 852, 1 March 1993), p. 26.

<sup>210/</sup> Amnesty International, *Killings of Gay Men in Chiapas: The Impunity Continues* (London: AMR 41/07/94, October 1994), p. 4, 8.

<sup>211/</sup> "Psicosis en Chiapas por la cacería de homosexuales," *Proceso* (Mexico City: No. 852, 1 March 1993), p. 24.

<sup>212/</sup> "Psicosis en Chiapas por la cacería de homosexuales," *Proceso* (Mexico City: No. 852, 1 March 1993), p. 25. Despite González' poor record on this and other issues involving human rights, in January 1993 President Carlos Salinas named him Secretary of Government, the second most powerful federal post after the presidency.

personnel.<sup>213/</sup>

## H. Whistle-blowers

Protection of whistle-blowers, and more generally of any individuals who uncover evidence of wrongdoing, depends on the existence of legislation for the purpose, backed by an independent judiciary with effective control of the police. Mexico has neither. In more than half of Mexico's 31 states, defamation laws actually discourage revelations of corruption. Even where such allegations can be proven, they are nonetheless sanctioned as defamatory if they cause "dishonor" to those accused.<sup>214/</sup> At best, anyone with the courage to expose corruption is likely to be indicted on defamation charges, at worst left unprotected from retaliation by the officials who were exposed.

- On June 15, 1992, Canadian immigration officials granted political asylum to Mario Rojas Alba, a member of the National Council of the Party of the Democratic Revolution (PRD), and federal deputy from Morelos from 1988 to 1991. In January 1992, three months after the assassination of the director of his senatorial campaign, Rojas began investigating the still unresolved 1988 disappearance of Revolutionary Workers' Party (PRT) leader José Ramón García in the same state. Rojas interviewed imprisoned former state policemen, one of whom confessed to taking part in the kidnapping, and obtained evidence that Governor Antonio Riva Palacio had been responsible for the disappearance. After calling a press conference for January 25, Rojas was kidnapped at gunpoint on the 24th, and tortured with a machete until a passing car frightened his assailant. Soon thereafter, federal Attorney General Ignacio Morales Lechuga met with Rojas to offer a deal in which Rojas would drop any reference to the governor, in return for the incarceration of lower-level officials, and a complete reorganization of the state police. Rojas refused. The attorney general then withdrew police protection, and Rojas fled to Canada, where he was granted political asylum.<sup>215/</sup>
- In December 1992, the Federal Ministry of Transportation and Communications

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<sup>213/</sup> Jardí, María Teresa, *Action Letter from the Department of Human Rights of the Archdiocese of Mexico City* (Mexico City: 13 February 1993).

<sup>214/</sup> "Mexico's Application of Defamation Law Blows Away Whistle-Blowers," *Washington Post* (Washington, D.C.: 30 December 1993), p. A16.

<sup>215/</sup> "Asilo político en Canadá al exdiputado federal morelense Mario Rojas Alba," *Proceso* (Mexico City: No. 846, 18 January 1993), p. 12-15

handled what were supposed to be competitive bids for a new air traffic control system for Mexico City. Yet when IBM representative Kaveh Moussavi refused to pay a \$1 million bribe solicited by government officials, the contract went to a joint Italian-French venture. Though bribery (the infamous *mordida*, or "little bite") continues to be commonplace in Mexico, what was unusual in this case was that Moussavi went public, against the wishes of IBM. Though the storm of international publicity led to the forced resignation of Secretary of Transportation and Communications Andrés Caso Lombardo, the Mexican government struck back by charging Moussavi with defamation.<sup>216/</sup> Because Moussavi lives in England, he could not be subjected to arrest, but did receive telephoned death threats.

- In its October 1993 issue, the journal *Forum* published an article by Brigadier General José Francisco Gallardo Rodríguez, in which he criticized human rights abuses by the army, and proposed the creation of a human rights ombudsman for the armed forces. Shortly thereafter, on November 9, General Gallardo was arrested, imprisoned in Military Camp Number One on the outskirts of Mexico City, and charged with numerous offenses, including two counts of defamation.<sup>217/</sup> Though Mexican courts have since found the charges invalid, the army has responded by preparing new charges in order to continue to hold the general behind bars.<sup>218/</sup>

## X. HUMAN RIGHTS ORGANIZATIONS

### A. The Development of Nongovernmental Human Rights Organizations

Mexico's human rights movement began in the 1970s, in response to large-scale violations of human rights under the administrations of President Gustavo Díaz Ordaz (1964-1970) and Luis Echeverría (1970-1976). In 1968, the government responded to massive pro-democracy demonstrations by surrounding a peaceful gathering of students in Mexico City's Tlatelolco Plaza with agents of the *Dirección Federal de Seguridad* (Federal Security Directorate, DFS), army troops and tanks. In the ensuing attack, hundreds of students were killed; hundreds more were

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<sup>216/</sup> "Mexico's Application of Defamation Law Blows Away Whistle-Blowers," *Washington Post* (Washington, D.C.: 30 December 1993), p. A16.

<sup>217/</sup> Minnesota Advocates for Human Rights, *Stifling Human Rights Advocacy in Mexico: The Censure of Brigadier General José Francisco Gallardo Rodríguez* (Minneapolis, MN: May 1994), 11 p. "El general brigadier José Gallardo propuso un ombudsman militar y lo encarcelaron," *Proceso* (Mexico City: No. 893, 13 December 1993), p. 20-24.

<sup>218/</sup> "Va perdiendo la cúpula militar su guerra legal contra el general Gallardo," *Proceso* (Mexico City: No. 940, 7 November 1994), p. 40.

detained at Military Camp Number One on the outskirts of Mexico City. For the next several years (through the early 1970s), white brigades (*brigadas blancas*) jointly organized by the army and DFS raided homes, making hundreds of suspected opponents of the government "disappear," never to be seen again. Years later, Zacarías Ozorio Cruz, a former soldier at Military Camp Number One who was granted asylum in Canada, described how he had been ordered to execute and bury the captives.<sup>219/</sup>

As in Argentina, where the Mothers of the Plaza de Mayo organized protests to demand information on the whereabouts of their children who were made to disappear during the "dirty war" of the 1970s, Mexican mothers whose children were made to "disappear" formed *Eureka* (Greek for "I found him!") under the leadership of Rosario Ibarra de Piedra, whose son Jesús vanished in Monterrey in April 1975.<sup>220/</sup> Rosario and her companions have hounded Mexican presidents and government officials ever since with demonstrations, hunger strikes, impromptu interrogations, and appeals to international human rights groups and the Catholic Church, all aimed at compelling the government to reveal what it did to the citizens it seized without legal pretext.

Two other women played important roles in launching and leading the Mexican human rights movement. Mariclaire Acosta, a professor of anthropology at the *Universidad Nacional Autónoma de México* (National Autonomous University of Mexico, UNAM), organized the Mexican chapter of Amnesty International, then became executive director of the *Academia Mexicana de Derechos Humanos* (Mexican Academy of Human Rights), linked to the UNAM. In 1989, Acosta founded the *Comisión Mexicana de Defensa y Promoción de los Derechos Humanos* (Mexican Commission for the Defense and Promotion of Human Rights, CMDPDH), a prominent nongovernmental agency that coordinates closely with state, national, and international human rights organizations.

A colleague of Acosta's at the Mexican Academy of Human Rights, María Teresa Jardí, has followed a different path, alternating between serving as a human rights advocate within

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<sup>219/</sup> "Huyó angustiado, por las matanzas que fue obligado a cometer, por motivos políticos," *Proceso* (Mexico City: No. 598, 18 April 1988), p. 12-18.

<sup>220/</sup> "For Mexicans, Concern Rises On Civil Rights," *New York Times* (New York: 23 September 1984).

government agencies, and leading nongovernmental human rights groups. She has avoided compromising her credibility by resigning from government posts when she encountered resistance. In 1991, she stepped down as special assistant for human rights to Attorney General Ignacio Morales Lechuga after discovering that two men accused of killing opposition columnist Víctor Manuel Oropeza had been tortured into signing confessions. She then became director of the human rights office of the Catholic archdiocese of Mexico City, from which position she exposed corruption in the Federal Judicial Police.

Other human rights initiatives emerged from within the Catholic Church. The Jesuits formed the *Centro de Derechos Humanos Miguel Agustín Pro* (Miguel Agustín Pro Human Rights Center), named after a priest who was ordered executed by President Plutarco Elías Calles, on charges of conspiring to assassinate President Alvaro Obregón. The Franciscans formed the *Centro de Derechos Humanos Fray Francisco de Vitoria* (Fray Francisco de Vitoria Human Rights Center), named after a friar who championed the cause of Mexico's indigenous peoples.

Following the withdrawal of the Democratic Current from the PRI in 1987 and uncertainties over the outcome of the 1988 presidential election, there was another notable rise in human rights violations as tensions rose nationwide, and the government responded with force to protests against electoral fraud, and to a generalized increase in independent organizing by peasants, workers, students and academics, liberal priests, and members of opposition parties. In tandem with the political opening brought about by Cuauhtémoc Cárdenas' strong showing at the polls, and growing support from international human rights organizations, this led to a vast expansion of the human rights movement during the presidency of Carlos Salinas (1988-1994), which was further accelerated by the international attention focused on Mexico as a result of its entry into the North American Free Trade Agreement (NAFTA).

The newly-formed *Partido de la Revolución Democrática* (Party of the Democratic Revolution, PRD) created its own human rights commission, which has since documented more than two hundred politically-motivated murders of party members and sympathizers. To confront the problem of electoral fraud, a whole new class of human rights organizations emerged: pro-democracy, or electoral observation groups. The first such group was the *Asamblea Democrática por el Sufragio Efectivo* (Democratic Association for Effective Suffrage, ADESE), formed to

monitor the 1988 presidential election. It was followed by the *Consejo para la Democracia* (Council for Democracy), created in the aftermath of that election. Both groups were composed of representatives of all opposition parties, as well as pro-democracy advocates within the PRI. Other groups followed, including *Acuerdo Nacional por la Democracia* (National Accord for Democracy, ACUDE), founded by prominent political scientists. When *Colegio de México* professor Sergio Aguayo assumed the leadership of the Mexican Academy for Human Rights, he changed its focus to electoral observation and reform, in the belief that political rights in Mexico were the key to all other rights. In 1991, Salvador Nava, a political independent widely believed to have been denied the governorship of San Luis Potosí by fraud, launched the *Movimiento Ciudadano por la Democracia* (Citizens' Movement for Democracy, MCD). Meanwhile, electoral reform groups were organized at the state level throughout Mexico. With the approach of the 1994 federal elections, many of these joined forces in a coalition, *Alianza Cívica* (Civic Alliance), that organized a nationwide electoral observation network.

Human rights groups were also organized in virtually every state. In Chiapas, the Catholic diocese of San Cristóbal de las Casas formed the *Centro de Derechos Humanos Fray Bartolomé de las Casas* (Bartolomé de las Casas Human Rights Center), named after the bishop who defended Mexico's natives before the Spanish crown. The Center was formed in response to the serious human rights abuses committed under Governor Patrocinio González Garrido (1988-1993). In Baja California Norte, Víctor Clark Alfaro founded the *Centro Binacional de Derechos Humanos* (Binational Human Rights Commission, CBDH); in Tamaulipas, Arturo Solís Gómez formed the *Centro de Estudios Fronterizos y de Promoción de Derechos Humanos, A.C.* (Center for Border Studies and Promotion of Human Rights, CEFPROD HAC).

### **B. Government-Sponsored Commissions: The National Human Rights Commission and its State Counterparts**

The May 1990 assassination of Norma Corona, co-founder and president of the Sinaloa-based Commission in Defense of Human Rights, set off a storm of domestic and international criticism at a particularly delicate stage of the negotiations on NAFTA. In response, President

Carlos Salinas created the National Human Rights Commission (CNDH) in June 1990. Though launched with an enormous public relations blitz, the CNDH's powers were deliberately circumscribed from the outset. The CNDH was made a dependency of the *Secretaría de Gobernación* (Secretariat of Government), one of the agencies it was supposed to monitor. It was given only advisory powers, and, at the initiative of its first president -- Jorge Carpizo, a close associate of President Salinas -- barred from considering any violations of political or labor rights, two of the major causes of human rights violations in Mexico.

Responding to criticism that the CNDH was created without constitutional authority, President Salinas formalized its powers through constitutional amendment in January 1992. By making the CNDH a dependency of Congress rather than the executive branch, the amendment established a greater degree of nominal independence, but with Congress securely in the hands of the PRI, the practical consequences were negligible.

More significantly, the amendment chiseled existing limitations on the CNDH into constitutional stone, as well as adding new ones. The CNDH, it stated, could merely make "recommendations" to government agencies, and could not review cases involving violations of electoral rights or labor rights, nor could it review actions of the judiciary that violate individual rights. Furthermore, the CNDH would no longer be able to receive complaints directly. Individuals whose rights had been violated would now first have to file complaints with the state human rights commissions created by Mexico's 31 state legislatures and the Representative Assembly of the Federal District, and could only then file subsequent appeals directly with the CNDH.<sup>221/</sup>

Commenting on these changes, the Lawyers Committee for Human Rights pointed out that:

the CNDH's jurisdiction has been reduced to issuing recommendations to federal agencies and reviewing the recommendations of the new state commissions. In effect, the Mexican government replicated a weak national institution at the state level, and diminished the authority of the original national body. It chose to expand a bureaucratic structure with questionable effectiveness, instead of taking

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<sup>221/</sup> Article 102, Section B, created by Constitutional amendment published in the federal *Diario Oficial* (official register of new laws and decrees) on 28 January 1992.

decisive measures to end police and military abuse, ensure that prosecutors do their jobs and guarantee that the courts dispense justice. The addition of state commissions merely adds another layer of bureaucracy and further delays investigations and possible prosecutions.<sup>222/</sup>

Though the CNDH has in many cases helped draw greater attention to human rights violations, and has undoubtedly contributed to pressure on government agencies to correct or punish the guilty, its overall record of achievement reflects its statutory limitations. More than 60 percent of the complaints submitted to the CNDH cannot be accepted because they concern violations of human rights that are outside its mandate. Out of 27,841 complaints filed between its inception in June 1990 and May 1994, the CNDH responded with only 796 recommendations - a rate of response of less than 3 percent. Of these, 376 (or 47 percent) were said to have been fully carried out. Sixteen (2 percent) were rejected outright, and 404 (51 percent) were "partially fulfilled."<sup>223/</sup>

A closer examination of the recommendations described as "partially fulfilled" raises further questions. In most cases, partial fulfillment consists of arrest warrants that remain unissued or unexecuted. Tragically, among the "partially fulfilled" cases is a recommendation for the arrest of Rodolfo Rivapalacio, a former member of the State Judicial Police of Baja California Norte, for torture and homicide.<sup>224/</sup> Rivapalacio, it turns out, was in charge of security at the rally in Tijuana where PRI presidential candidate Luis Donaldo Colosio was assassinated in March 1994.

Responding to criticism from the United Nations Committee on Torture, the CNDH reported that penal action had been taken against 53 officials for the crime of torture. Yet of these, only seven were given jail sentences, and of these seven, five were cited for murder

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<sup>222/</sup> Lawyers Committee for Human Rights, *Critique: Review of the U.S. Department of State's Country Reports on Human Rights Practices for 1993* (New York: 1994), p. 238.

<sup>223/</sup> These figures, tabulated by the nongovernmental CMDPDH, are combined from *Cuarenta Meses en Cifras* (Mexico City: CNDH, December 1993), covering 6 June 1990 - 29 October 1993, and *Informe Anual* (Mexico City: CNDH, June 1994), covering 30 October 1993 - 25 May 1994.

<sup>224/</sup> Acosta, Mariclaire, "El Sexenio salinista y los Derechos Humanos," *Reforma* (Mexico City: No. 14, 17 July 1994). Mariclaire Acosta is the President of the Mexican Commission for the Defense and Promotion of Human Rights.

resulting from torture. In thirteen of the remaining cases, no arrest warrant had been issued, and in another 25, the charges were dismissed by judges.<sup>225/</sup> Surveying the record, Amnesty International concluded that "virtually none of the recommendations concerning gross human rights violations were fully implemented."<sup>226/</sup> The Lawyers Committee for Human Rights added that "the scant contribution of Mexico's governmental human rights commissions to ending the 'culture of impunity' raises the question of whether the commissions themselves are the products of, or factors contributing to, the persistence of this culture."<sup>227/</sup>

Such criticism, which was uniform among Mexican and international human rights organizations, may have contributed to incoming president Ernesto Zedillo's decision to enact far-reaching judicial reforms in December 1994.

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<sup>225/</sup> Acosta, Mariclaire, "El Sexenio salinista y los Derechos Humanos," *Reforma* (Mexico City: No. 14, 17 July 1994). Mariclaire Acosta is the President of the Mexican Commission for the Defense and Promotion of Human Rights.

<sup>226/</sup> Amnesty International, *Amnesty International Report 1994* (London: 1994), p. 210.

<sup>227/</sup> Lawyers Committee for Human Rights, *Mexico's National Human Rights Commission: A Governmental Response to Widespread Human Rights Violations* (New York: September 1993), p. 3.

**APPENDIX: ADVICE TO INS FIELD OFFICERS**

- To be able to definitively identify Mexicans, it is essential to have both their paternal and maternal surnames. A name like José González or Francisco Rodríguez is almost useless, because there are too many other persons sharing the same names. That is why it is customary in Mexico to use the maternal as well as paternal surname, making it possible to distinguish Francisco Rodríguez Jiménez from Francisco Rodríguez Velasco. This is important not only for the applicants themselves, but for all persons named by the applicants in their statements to INS officers. Complete names are essential to verify details of the applicant's story, and thus to adjudicate the overall credibility of the claim.
- Applicants should also be asked to identify both the state and municipality they lived in at the time of alleged incidents, particularly when they claim to have been persecuted for their participation in electoral campaigns on behalf of opposition parties. Only by knowing where the applicant resided at the time of the alleged events is it possible to determine whether an election actually took place at that time and location. Knowledge of such details lends credibility to the applicant's story, because the details tend to be sufficiently complicated that it would be difficult to get them right if one had to invent the story.

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