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# MEXICO'S RECORD ON HUMAN RIGHTS

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Y 4. F 76/1: M 57/16

Mexico's Record on Human Rights, 10... **ARING**

BEFORE THE  
SUBCOMMITTEES ON  
INTERNATIONAL SECURITY, INTERNATIONAL  
ORGANIZATIONS AND HUMAN RIGHTS  
AND  
WESTERN HEMISPHERE AFFAIRS  
OF THE  
COMMITTEE ON FOREIGN AFFAIRS  
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRD CONGRESS

FIRST SESSION

OCTOBER 26, 1993

Printed for the use of the Committee on Foreign Affairs



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# MEXICO'S RECORD ON HUMAN RIGHTS

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TUESDAY, OCTOBER 26, 1993

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
SUBCOMMITTEE ON INTERNATIONAL SECURITY, INTER-  
NATIONAL ORGANIZATIONS AND HUMAN RIGHTS, AND  
SUBCOMMITTEE ON WESTERN HEMISPHERE AFFAIRS,  
*Washington, DC.*

The subcommittee met, pursuant to call, at 2:05 p.m. in room 2200, Rayburn House Office Building, Hon. Tom Lantos (chairman of the Subcommittee on International Security, International Organizations, and Human Rights) presiding.

Mr. LANTOS. The joint hearing of the Subcommittee on International Security, International Organizations and Human Rights and the Subcommittee on Western Hemisphere Affairs will now be in order.

When every newspaper published and every radio and television broadcast carries a NAFTA story in these few remaining days before the November 17 vote, it seems inconceivable that there is any aspect of the agreement that hasn't been fully aired in this country. But there is. Largely ignored in the focus on trade and employment implications of the NAFTA agreement, is the key issue of whether NAFTA will have a beneficial influence on Mexico's highly dubious human rights performance as well as on Mexico's very questionable record in the field of labor rights. To assess this question, it is necessary to look at Mexico's human rights record, the efforts of the Mexican Government to combat the widespread abuses in both the human rights and the labor fields, and government restrictions on the pillars of free society: a free press, and independent judiciary, and fair elections.

I find it amusing that there is so much widespread disagreement on the economic implications of NAFTA. Professional economists on both sides of this debate present dramatically different conclusions. The topic that we will be dealing with today will compel all of, those who are opposed to NAFTA and those who favor NAFTA, to have a far wider degree of agreement because what we are dealing with is not projections of what future economic trends will hold but the record of the Mexican Government in the field of human rights and labor rights, and that record is far from exemplary.

Today's testimony across the board will show that Mexico is a long, long way from being a political democracy where human rights and labor rights are honored. It is a one-party state that perhaps uses the carrot more often than the stick to maintain control, but resorts to sticks, bombs, and guns when it deems it necessary.

President Carlos Salinas de Gortari has spoken out forcefully on the need to improve Mexico's human rights record, and his appointment earlier this year of a highly respected individual, Jorge Carpizo, to be attorney general, is somewhat encouraging. But Mexico has a long way to go before it can be viewed as a country that truly encourages freedom in all its manifestations, notably the free competition of ideas.

One of the most appalling examples of Mexico's disregard for freedom of expression was revealed during a hearing on the Senate side before Senator Hollings' committee. Critical testimony with respect to NAFTA resulted in the disruption of a television program by the Mexico Government. No more dramatic manifestation could be found than the sudden discontinuance of a television broadcast when critical comments are made of how far the Mexican Government needs to go in cleaning up its act.

One of my key areas of concern is Mexico's handling of labor issues. Through a very clever policy of co-optation, the Institutional Revolutionary Party, or PRI, which has ruled Mexico uninterrupted since 1929, has brought some key labor leaders into its inner circle. As a result, although Mexico's constitutional protections for workers and trade unions sound quite good, they are hardly ever upheld either on the shop floor or in the law courts. Efforts to establish unions that are truly free of government domination have been crushed while the officially-sanctioned union federation more closely resembles a tool of the government than an independent advocate for workers. This corporatist framework has allowed the Mexican Government to suppress Mexican wages artificially. Indeed, wages in Mexico today have about 60 percent of the purchasing power they had a decade ago—a decade ago—despite a substantial increase in the productivity of Mexican labor in manufacturing since 1980.

Now it is important to recognize that Mexico has made significant strides in the macroeconomic field in recent years. They lowered the inflation rate, opened up industries to foreign investment, and privatized many state-owned industries. As a professional economist, I understand very well that when most countries undertake these laudable goals and achieve them, they usually encounter very stiff resistance from labor, because in the short run labor often suffers from these moves to open up the economy. In Mexico, however, because workers lack the right to strike and to bargain collectively, the government has successfully placed much of the cost of wrenching transition in this economy on the backs of ordinary workers. And in those rare cases where Mexican workers have risen up to protest, as they did at the Ford Motor plant in January 1990, they were brutally suppressed.

And this is where Mexico's human rights record intersects squarely with NAFTA. Since NAFTA is about trade, the voice of labor, individual workers and their freely chosen representative, must be able to express their views, as should all citizens. While the cacophony of American voices pronouncing on NAFTA may trouble and vex this administration, there is no doubt in my mind that President Clinton fully realizes the need for a thorough and complete debate over NAFTA. I only wish that would be the case in Mexico.

There does not seem to be the same open, public debate on NAFTA in Mexico. In fact, it appears that the Salinas government is trying to stifle critics through its circulation of a black list—of a black list—that contains the names of individuals who have been barred from access to radio and television, and, as I mentioned earlier, Mexico city's heavy-handed censorship, exposed during Senator Hollings' October 21 committee hearing on NAFTA, is hopefully not a sign of things to come. Televisa, the radio and television conglomerate which is totally beholden to the government party, pulled the plug—literally pulled the plug—in the midst of testimony from a panel of Mexican citizens who were voicing criticism of NAFTA. After the affair, my friend, Senator Hollings, commented appropriately—and I quote him—"You can't have free trade when you don't have a free society" and we must indeed ponder seriously the implications of this sickeningly undemocratic act.

We have a formidable panel of experts to help us look at these complex issues today. Before turning to them, I am delighted to call on my good friend and colleague from Florida, Congresswoman Ros-Lehtinen.

Ms. ROS-LEHTINEN. Thank you so much, Mr. Chairman.

I share your concern about the protection of human rights and workers' right in what is, as you pointed out, essentially a one-party state. In my congressional office in Miami, we have had a number of constituent cases related to businessmen and women who have had dealings—business, commercial, dealings—in Mexico, and they have been the victims of coercion from the government to get them to settle differences in various cases.

We have also had reports in our congressional office of visitors who have been harassed because they were expressing views that were not in agreement with the ruling government. We have had constituents who have relatives who are residents of Mexico, and there have been numerous reports of human rights violations to those family members.

There are also some grave questions about the freedom of the press that does not seem to truly exist in Mexico. There have been reports of electoral fraud and a general disregard for human rights.

So I look forward to hearing the testimony of the individuals present here today so we can all get a better understanding of the true situation and how NAFTA will impact on the human rights situation in Mexico, whether it will be an improvement or work to the detriment of the workers, the residents, and the visitors of that country.

Thank you, Mr. Chairman.

Mr. LANTOS. Thank you very much.

I am delighted to call on one of the strongest advocates of human rights in the Congress, Congressman Don Edwards, the dean of the California delegation.

Mr. EDWARDS. Thank you very much, Mr. Chairman, and thank you also for allowing me to sit in on this very, very important hearing. I have heard a lot about it, and I am very anxious to participate.

Thank you.

Mr. LANTOS. We are delighted and honored to have you, Don.

Before turning to our first witness, I would like to express my deep appreciation to Beth Poisson, Mike Ennis, Dr. Bob King, Josephine Weber, and our two able interns, Frank Salupo and Jon Peterson, for preparing this hearing.

Mr. LANTOS. Our first witness is the Assistant Secretary of State for the Bureau of Human Rights and Humanitarian Affairs, the Honorable John Shattuck. He is known internationally as a strong and effective fighter for human rights, and his testimony in its entirety will be entered in the record.

You may proceed any way you choose, Mr. Secretary.

**STATEMENT OF HON. JOHN SHATTUCK, ASSISTANT SECRETARY, BUREAU OF HUMAN RIGHTS AND HUMANITARIAN AFFAIRS, U.S. DEPARTMENT OF STATE**

Mr. SHATTUCK. Thank you very much, Mr. Chairman. It is an honor for me to participate in a hearing of such great importance. As you have described, there are many, many complex human rights issues in the world that we are exploring together. This one is particularly important and particularly complex.

I think there will be perhaps less disagreement on the facts than perhaps the outcome, as you have indicated. But let me proceed with my testimony.

The debate over the North American Free Trade Agreement is a broad one and touches on nearly all aspects of our relationship with Mexico. I appreciate the opportunity to contribute to that debate from my position as Assistant Secretary of State for Human Rights.

You and your colleagues in the Congress have heard and discussed much of the economic debate—pro and con—on NAFTA, and I will not attempt to repeat that or to enter that debate in any significant way. Instead I will address the state of democracy and human rights in Mexico and how, in the view of this Assistant Secretary and this administration, NAFTA will have a positive impact on the situation.

The condition of democracy and human rights in Mexico has improved in the past few years, although further substantial improvement is clearly needed. Mexican citizens have demonstrated increasing awareness of their rights at the grassroots level, and concrete steps at the same time have been taken by the government to open the Mexican political system and reduce human rights violations. NAFTA will reinforce those within Mexico who are seeking reform and who are modernizing Mexico and its political system. We can promote these developments by encouraging reform efforts underway and strengthening bilateral ties, both of which NAFTA would foster. To reject NAFTA would deprive Mexico of a strong incentive to continue reform and ourselves of the means to influence it.

In a word, Mr. Chairman, I think there is a great struggle underway in Mexico at this moment on issues of human rights and democracy. I believe it is the responsibility of my office and the U.S. Government in general to side with those who are seeking to bring about positive change.

The restructuring of the Mexican economy is changing the role of the state, creating an internal dynamic for reform which is already reflected in the political system.

Mr. LANTOS. I just would like to stop you for a second. Could you repeat that last sentence, because I understood that it is the responsibility of your office to stand with those who want to promote change. Is the implication that the people in Mexico who are opposed to NAFTA are not in favor of promoting change among human rights and labor rights and more democratization?

Mr. SHATTUCK. Not at all, Mr. Chairman. Indeed, as I said at the beginning, this is a subject of high and complex debate. There is probably more debate in our country than in Mexico, as you indicated.

Mr. LANTOS. For obvious reasons, yes.

Mr. SHATTUCK. I fully respect the views of those not only in the United States, but also in Mexico, who take the position that siding with change means opposing NAFTA. I happen to disagree with that position, but I respect it.

Further improvements in the Mexican political system are clearly necessary at all levels. The government, in dialogue with the opposition, has gradually carried out a wide range of political reforms designed to encourage popular participation and improve the fairness of elections. Although the process has been strengthened, progress toward a more equitable and open political system is evolving at a somewhat slower pace than progress in the economic sphere.

Since 1929, the Government of Mexico has been controlled by the Institutional Revolutionary Party—the PRI, by its Spanish acronym—or its predecessor, who has won every Presidential race and every gubernatorial race until the elections of 1989 and 1992. There continue to be episodes of violence surrounding close elections at the state and local levels and credible reports of election and voter fraud. Many Mexican voters lack confidence in the electoral system and in the commitment of some PRI leaders to abide by the reforms which the Salinas government and the Mexican Congress have put in place.

Yet that is only part of the story: The Government of Mexico has responded positively to its citizens' growing demands for reform of the political system. Electoral reforms in 1990 and again in 1993 have professionalized and made impartial the country's electoral apparatus. In 1990, the Federal Electoral Institute was created to administer and regulate elections. It has since produced a new voter registry and a computerized, more tamper-resistant voter identification card system, and hired and trained more than 2,000 professional staffers.

Reform efforts also introduced greater independence and impartiality in the adjudication of electoral disputes, including the creation this year of an electoral court of appeals whose judgments cannot be overruled by the President or the Congress. These reforms have opened up the political system, and opposition parties have made significant gains. Today, 12 to 15 million Mexicans are governed by the opposition at the state or local level. Opposition parties control 10 percent of Mexico's municipalities and the National Action Party (PAN) holds 3 of the 31 governorships, as a re-

sult of winning two elections and having their candidate appointed following a disputed election.

As we prepare our annual State Department Human Rights reports, we are watching very closely to see the effects of these reforms. Although international election monitors have not been invited by the Mexican Government to observe elections, the Carter Center and the National Democratic Institute have been actively involved with the Mexican Government and NGO's to monitor and improve electoral procedures. A recent Mexican law also allows for greater opportunities for Mexican citizens to act as impartial democratic election monitors.

Progress has also been registered in recent years in the area of human rights, although continued improvements are clearly necessary. Serious violations of human rights persist in Mexico, as we have detailed in our human rights report last year and as we no doubt will detail in our report coming this year. Among them are the use of torture, widespread brutality, and instances of extrajudicial killings by police and a frequent failure to punish those responsible for such transgressions. A culture of impunity still sadly affects too many members of the police and has hindered efforts to enforce a greater respect for human rights. Despite downward trends in the statistics, police still use torture to coerce confessions from detainees. There are frequent reports of arbitrary detention and police brutality.

Although the majority of instances of police abuse, arbitrary arrest and torture have been directed against Mexican citizens, there have also been instances of abuse against American citizens. In 1992, the U.S. Government formally protested through official channels 16 cases of torture or other mistreatment by the police. It should be noted, of course, that the Mexican Government has also raised with us a number of allegations of abuse of their nationals in the United States.

Other problems involve the rights of the indigenous. Because many of Mexico's indigenous or marginalized and impoverished, they are often the victims of human rights violations in rural land disputes such as forcible ejections and police violence. Some human rights groups have called for an amnesty for many indigenous people who the groups charge, are denied access to fair trials because of language and cultural barriers, as well as poverty. Criminal procedures were recently amended to provide interpreters for non-Spanish speaking indigenous people.

This administration is deeply concerned about human rights in Mexico and continues to raise human rights concerns at the highest level, most recently in a meeting between Foreign Minister Soland and Secretary Christopher on September 29. While we have registered concern about Mexico's human rights record, we find no evidence that the government condones abuses. On the contrary, President Salinas has publicly and strongly stated the importance of protecting human rights as a matter of Mexican domestic policy and has lent the authority of his office to efforts to reduce violations and to create a culture of respect for human rights.

The most notable initiatives by the Mexican Government have been the June 1990 establishment of the National Commission on Human Rights and the appointment of acknowledged and highly

recognized human rights advocates to senior government positions. The Commission has a mandate to investigate violations of human rights by government agencies, to report publicly on those abuses, and to promote human rights education of the public. The Commission sets up separate investigations into areas of special concern such as disappearances, treatment of indigenous people, attacks on journalists, and prison conditions. From May 1992 to the present, the Commission's efforts have resulted in disciplinary action against 1,031 government employees.

Mr. LANTOS. Mr. Secretary, I apologize for interrupting you, but we have a vote going on. So if you will suspend for just a few minutes, we will come back as soon as possible.

Mr. SHATTUCK. Thank you.

Mr. LANTOS. The subcommittees will be in recess.

[Recess.]

Mr. LANTOS. The subcommittees will resume. We shall close the door, please.

Mr. Secretary, I am sorry about the interruption, but you understand.

Mr. SHATTUCK. Absolutely.

Mr. LANTOS. Please pick it up—

Mr. SHATTUCK. I have a taxpayer's and a citizen's interest in having votes go forward.

I was discussing, Mr. Chairman, the work of the National Commission on Human Rights and its recent record, and I was pointing out that from May 1992 to the present the Commission's work resulted in disciplinary action against 1,031 government employees. In 348 of those cases, criminal charges have been filed. It will take some time for the 348 cases to move through the judicial system. We shall track those cases very closely.

Since enabling legislation was passed in June 1992, similar human rights Commissions have been established at the state level in each of Mexico's 31 states. Other significant efforts to bring Mexico's human rights record into compliance with international standards include legislation recently enacted making confessions inadmissible at trial unless obtained in the presence of defense counsel and a judge or Public Ministry official; training programs to raise professional standards within the Federal police; and the appointments of respected human rights activists as the head of the Mexico City Human Rights Commission and as attorney general for the State of Chihuahua.

These efforts directly address the human rights problems, but, as with all reforms, they will take time and continued effort to be fully effective. Solutions to Mexico's problems are further hindered by a weak judicial system that sometimes fails to observe the rights defendants are granted by law. Also, factors such as low pay and high case loads contribute to corruption and inefficiency within the judicial system.

In January 1993, President Salinas appointed Jorge Carpizo McGregor, a former president of the National Human Rights Commission, as Attorney General, providing the Commission with a firm ally in the most important law-enforcement agency in the country. Since Jorge Carpizo became Attorney General, 1,205 officials in his office have left, either because they were forced to re-

sign or because they were not willing to abide by Carpizo's higher standards. Furthermore, 300 officials have been prosecuted and 45 are now in jail serving sentences that average over 5 years each.

Given this progress, approving NAFTA will give us the chance to work more closely with the current government and its successor and the people of Mexico to reinforce democratic reform. NAFTA supports the dynamic for reform. It will help promote more openness in the Mexican Government and reinforce reform elements that wish to modernize Mexico and its government. I might also add that, as governments around the world are finding out, an open, free-market, economic system brings relentless pressure on the political system to become more responsive and accountable.

The issue of workers' rights has received considerable attention in the NAFTA debate. Reports continue to arise about the inability of workers to organize, to be able to work in a safe environment and bargain individually and collectively for wages sufficient for daily support. Although the Mexican labor force has enjoyed a high level of unionization, the unions are for the most part linked to the PRI. These ties, however, are weakening as the Government installs various decentralization measures and as internal movements within the unions strive toward greater independence. Under the Constitution, workers' rights are protected and implemented under the Mexican Federal labor laws and social security laws, although the standard wage of unionized workers is generally higher than that of nonunionized workers.

The safety conditions in the Mexican workplace are also slowly improving. Enforcement of health and safety rules is considered effective for large companies, including most maquiladoras, although the compliance of small private business is far less satisfactory. Payroll taxes are adjusted according to the safety records of each business operation, and each workplace is subject to labor and management safety and monthly health committee inspections.

The North American Agreement on Labor Cooperation, as the side agreement on labor is called, provides mutual commitments to enforce national laws concerning child labor, health and safety, minimum wage, and industrial relations. Importantly, it provides mechanisms to give the safeguards force by creating a Commission for Labor Cooperation that will be able to oversee implementation of the agreement, encourage voluntary improvement, and, as a last resort, impose sanctions in some domains.

These provisions give the side agreement a dual impact: Cooperation among the U.S., Mexican, and Canadian Governments to improve working conditions and compliance with labor laws, and provision of authority within Mexico for the Federal labor authorities to monitor good faith compliance with of labor law enforcement for industries under state government jurisdiction.

In closing, Mr. Chairman, I would note that the generation taking its place in the leadership of Mexico has had far greater exposure to the world through advancements in telecommunications and travel than have previous generations. This has created a demand for better government and a greater government accountability. The reforms that the Mexican Government has instituted reflect—and are indeed propelled—by that change. NAFTA will hasten these reforms and, by strengthening our bilateral relationship



with Mexico, will lead to an even more productive dialogue on the necessary improvements, continued improvements in human rights and democracy.

Thank you very much.

[The prepared statement of Mr. Shattuck appears in the appendix.]

Mr. LANTOS. Thank you very much, Mr. Secretary, for forceful and substantive testimony.

Let's begin by asking your opinion of the issue I raised at the outset. I am going to quote from the Wall Street Journal of October 22. The title of the story is "Testimony by NAFTA critics is terminated by Televisa." The story goes as follows: "A group of Mexicans testifying via satellite before a U.S. Senate committee were abruptly cutoff by a powerful Mexican television station, raising new questions about freedom of speech as Mexico enters its Presidential campaign year. The five Mexicans, all with varying criticisms of the North American Free Trade Agreement, lost video and audio connection with the Commerce Committee from the studios of Televisa. A Televisa spokesman said the media conglomerate had nothing to say on the matter. But Televisa was expect to deny in its late evening newscast that it censored the testimony and affirm that it had met its contractual arrangement with the Senate, government officials said. The U.S. Senate had contracted for 1½ hours of time with Televisa, and communications were cutoff after less than an hour, a Senate staffer said. Senator Earnest Hollings, Democrat of South Carolina, chairman of the Commerce Committee, who opposes NAFTA, was quick to condemn the action, 'You can't have free trade when you don't have a free society,' he said. Televisa has come under heavy fire for providing paltry coverage of critical views of the Mexican Government. Jorge Costaneda, an academic and author, who was among those who testified called the episode, 'traditional authoritarian behavior by Televisa, the epitome of Mexican authoritarian rule'".

Would you be so kind and comment on this episode.

Mr. SHATTUCK. Well, Mr. Chairman, let me add my condemnation to that of Senator Hollings and others about this deplorable episode which is an indication of the difficulties in the area of freedom of the press which have been and in some cases continue to be encountered. We are dealing here with a situation in considerable flux politically institutionally and legally. The status of press freedom in Mexico has historically been quite deplorable. There has been very little tradition of freedom of the press; the media has generally been controlled by government institutions across the board.

Beginning in June of 1991, there has been a significant debate at both governmental and grassroots levels demanding far greater freedom of the press. The Government of Mexico began to give up its monopoly on the news business by first ending its monopoly on newsprint and then allowing much more private enterprise in the area of production of newspapers.

In 1992, the government issued regulations that significantly changed the relationship between reporters and government officials in Mexico, barring the common practice of inviting reporters and paying them to go along for the ride where the government

was seeking or government officials were seeking media cooperation.

In 1993, the government finalized the sale of state-owned television Channels 13 and 7 to private buyers, and we anticipate further such sales. The episode that you described Mr. Chairman, clearly contradicts that practice, and will undoubtedly find its way into the human rights report that we will publish in January. To repeat, I deplore this incident.

But I think the struggle that is under way in Mexico on subjects of human rights and democracy across the board is illustrated by the contradictions between that episode and some of the information that I have provided.

Mr. LANTOS. Of course, Mr. Secretary, some might argue that even though a television station is privatized, it may well be sold to the big business cohorts of the government and the policy of no genuine press freedom is likely to continue unabated even though the ownership pattern changes.

Mr. SHATTUCK. Well, that is possible under many circumstances. You know, we always have to force reality. There are certainly conglomerations of interests that own and control portions of our own media. That is not to say we don't have very strong traditions of freedom of the press in this country. I think the issue is not so much who the individuals are going to be who ultimately purchase the television stations as what it is that reporters and others are permitted to do. Certainly episodes such as the one that you cited are not evidence of positive movement.

Mr. LANTOS. The Mexican Government, as I understand it, has a monopoly of newsprint and it also issues licenses to all media organizations. This clearly gives it the power to exert enormous pressure on the press. To your knowledge, has this control been used to influence the press?

Mr. SHATTUCK. As I indicated a moment ago, since June of 1991, the government has given up its monopoly on newsprint. In fact, newsprint and publication of newspapers is now permitted by importation by private sources. I think freedom of the press in the print media is perhaps more alive and well than seems to have been the case in the episode that you described with the television media.

Mr. LANTOS. Is it true that the Mexican Government circulated to the electronic media a blacklist containing names of NAFTA critics who are not allowed access to television or radio?

Mr. SHATTUCK. I am not aware of that, Mr. Chairman.

Mr. LANTOS. Mr. Secretary, the Peruvian author, Mario Vargas Llosa, has said of the Mexican system—and I quote—"The perfect dictatorship is Mexico because it is a camouflaged dictatorship. It may not seem to be a dictatorship, but it has all the characteristics of a dictatorship: the perpetuation not of one person but of an irremovable party, a party that allows sufficient space for criticism, provided such criticism serves to maintain the appearance of democracy but which suppresses by all means, including the worst, whatever criticism may threaten its perpetuation in power." Would you care to comment on this observation?

Mr. SHATTUCK. Mr. Chairman, I have been very forthright in my testimony which is based in our human rights report. The history

of democracy and democratic electoral systems in Mexico is a very troubled one. It involved one-party control for a very long period of time. There have been very significant changes in that system over the last 3 years. In particular, the opposition parties now control some 10 percent of the local governments in Mexico, and some 12 to 15 million out of the 90 million total Mexican population are now governed by opposition parties.

There have been two very significant sets of electoral reforms, one in 1990 and another in 1993, which have substantially changed the controlling mechanisms that the PRI has had in place for many years. I would particularly mention the fact that the leadership of the Federal legislature including chairmanship of key committees is now open to and occupied in several instances by members of opposition parties.

The Federal Electoral Institute, which has been put in place by the reforms of 1990, has established a voter identification card system which is making significant improvements in the area of electoral fraud. A Federal Electoral Tribunal similar to the National Commission on Human Rights has been in place since 1990. It is that tribunal that rules upon disputed elections and not the legislature itself.

There are significant indices of change in the institutional process of democracy in Mexico. This is change that is demanded at the grassroots level by the people of Mexico, who have been very active in pursuing institutional reforms of the kind that I have described.

Mr. LANTOS. You mentioned election fraud a minute ago. Are there cases in which the PRI, the Government party, the ruling party, has overturned election results and denied victory to winning opposition candidates?

Mr. SHATTUCK. I am not aware, but I would be happy to provide you an answer for the record to that question, Mr. Chairman.

Mr. LANTOS. Well, it is our information that this has occurred and it has occurred on more than one occasion.

[The information follows:]

*Question.* You mentioned electoral fraud a minute ago. Are there cases in which the PRI, the Government party, the ruling party, has overturned election results and denied victory to winning opposition candidates?

*Answer.* Mr. Shattuck: Since the reforms began in 1990 there have been a number of state and local elections. While there have been credible allegations of electoral fraud in some of those elections, we are aware of no credible evidence that the PRI denied victory to a winning candidate by overturning the election results. In the large elections for state governors, there was no credible evidence that the electoral fraud affected the eventual outcome of the race. In the disputed race for state governor of Guanajuato, an opposition party member was appointed to fill the position.

*Question.* I am really asking about Mexican citizens, the repression of Mexican labor and any demarche our Government may have made in that connection?

*Answer.* We have raised the issue of labor relations with the Mexican Government. In one recent example, the USG expressed concern to the Mexican Government over complaints from both Mexican and U.S. trade unionists that a local labor leader in Matamoros, Aqapito Gonzalez, was arrested on tax evasion charges in January 1992. At the time, his union was initiating strikes against a number of mostly U.S. owned maquiladora plants that had not agreed to contract renewal terms. The strikes were legal: the collective bargaining agreements had expired. The government denied there was any connection between the arrest and the contract renewal negotiations. Since his release in October, 1992, he has resumed his union leadership position and conducted labor contract renewal negotiations without incident.

Mr. LANTOS. I would like to talk about political assassinations for a few moments. A business publication, CEO magazine, claims that between 1988 and 1992, 52 officials of Mexican opposition parties were murdered by Federal police or by hired thugs. Some consider this figure on the low side. What are your figures, Mr. Secretary, concerning the number of political assassinations in recent years?

Mr. SHATTUCK. Well, in recent years, Mr. Chairman, I think—

Mr. LANTOS. For whatever years you have them available.

Mr. SHATTUCK. Yes. The figures—going back quite a bit, are very disturbed disturbing. I would take this year to begin with, because I think we have seen here the way in which this subject has been attacked both by the Human Rights Commission and by the attorney general in his new position. This year, 140 acts of violence against the opposition party, the PRD, have been fully investigated by the Human Rights Commission, and the attorney general is currently pursuing 30 prosecutions. Those are obviously instances in which there is substantial evidence of political killings directed at the opposition party. But there is, by the same token, very substantial evidence that this issue is being addressed. We would say a great deal more needs to be done in this area, but this issue is being addressed by the new institutions.

Mr. LANTOS. Your Department's human rights report and reports of private human rights organizations have documented incidences of torture and abuse of detainees by the Mexican Federal Police. To the best of your knowledge, Mr. Secretary, has a Mexican court ever convicted a police officer for the torture or death of detainees?

Mr. SHATTUCK. I am going to give you information that is very current because I think that is the most important information of all. This year there has been a substantial crackdown on the Federal Judicial Police, which have been the source of a lot of the problems that you are describing. Since Attorney General Carpizo took office, 57 top-level commanders have been fired, 180 agents have been fired, and 11 other officials have been similarly fired; 44 of these have been convicted and are in prison, including for murder and torture. Improved training and accountability standards are being put in place.

Mr. LANTOS. Well, I have a large number of additional questions, but I want to recognize the distinguished ranking Republican of the subcommittee, Congressman Bereuter, for any opening statement he may care to make and for any questioning he may want to undertake.

Mr. BEREUTER. Thank you very much, Mr. Chairman, and I thank Secretary Shattuck for his comments which I appreciated very much.

I do have a set of opening remarks that I would like to go through despite being a little bit lengthy. I understand that in your opening statement, Mr. Chairman, you outlined in detail the human rights situation in Mexico today. It is a serious issue that needs to be addressed in serious fashion, and I do support your inquiry into the Mexican human rights concerns.

As evidence of that, indeed, it was this member that first in 1990 pushed for public investigation into Mexican human rights. I became concerned by a variety of things but especially by the daylight assassination of the human rights activist, Norma Corona.

Former Chairman Gus Yatron and I, together with our colleague, Chris Smith, pursued this concern despite some considerable pressure within Congress to cancel the hearing. Yet we persisted in the hearing, and I believe our efforts, in fact, played some small role in the Mexican Government's decision to create a Human Rights Commission.

I am concerned, however, with the way human rights seem to be playing into the debate over NAFTA. Individuals, I think, who wish to see NAFTA defeated have seized upon specific problems as a reason to see the North American Free Trade Agreement go down.

On the part of some of the critics, there has been no recognition, I believe, of the major improvements that have occurred in recent years. Nor is there a recognition that respect for human rights in Mexico is most pronounced in those regions where U.S.-Mexican trade relations are the most developed. In the case of Mexico, we already see increased trade having a clear and demonstrable positive effect upon human rights in those areas.

Nor is there any reason to believe that the defeat of NAFTA would have a positive impact upon human rights in Mexico. Indeed, the overwhelming evidence suggests that a freer economy, at least enhanced international communications in commerce, lends itself to freer politics. As Morton Kondracke noted in Monday's Roll Call newspaper, "Rejecting NAFTA wouldn't make Mexico more democratic, but it could make Mexico poorer and more resistant to U.S. influence."

As I mentioned, Mr. Chairman, it is certainly appropriate to raise human rights concerns, especially with a country that aspires to a very close trading relationship with us, and I will continue to press my concerns about extrajudicial killings as I have in the past. I will press for justice in the case of Nora Corona whose alleged assassin, a member of the Federal Judicial Police, remains in prison but not yet convicted of the crime. I will remain critical of the Federal Judicial Police who have been clearly linked with torture, murder, and narcotics trade.

Yet I believe we also have to look, as I said, at the trend lines and see whether the changes that have occurred in recent years will bring about meaningful human rights reform.

Let me point to just a few positive facts. First, since June of 1990, the Mexican Human Rights Commission has gone from the germ of an idea to a fully functioning ombudsman office that aggressively investigates allegations of abuse. As a result of that, over 1,000 governmental officials have been disciplined and criminal charges have been filed against 348 individuals.

The Human Rights Commission has repeatedly demonstrated that it is genuinely committed to cleaning up Federal, state and local government in Mexico. Moreover, with Jorge Carpizo, the original head of the Commission, now serving as attorney general, the Commission has begun to show some teeth. The Justice Ministry has expressed its willingness to prosecute cases where the Human Rights Commission has gathered sufficient evidence to obtain a conviction.

Attorney General Carpizo has demanded a new and higher level of integrity in the Mexican Justice Ministry. As a result—and I had this confirmed this weekend when I was in Mexico City visiting

with President Salinas and one of the people in the Justice Department—57 senior Justice officials and 180 Federal Judicial Police have been fired, with 44 of those fired serving in prison either because they have been convicted or they are awaiting trial. Another 1,205 individuals have resigned because of the higher moral, ethical, legal standards being pushed by the Salinas administration, and I would suggest that this is an important sign of reform.

Mr. Chairman, before I conclude with a final paragraph or two, I have material as a result of this past weekend's visit from the U.S. State Department which I would like to have submitted for the record. One is a fact sheet on human rights in Mexico; another is a listing of advances in the media, Freedom in Mexico; and the third is a fact sheet on electoral reform. I think they are significant additional facts that we ought to have in our record, and I would ask unanimous consent to include them in the record.

Mr. LANTOS. Without objection, they will be entered in the record.

Mr. BEREUTER. Thank you.

[The material appears in the appendix.]

Mr. BEREUTER. Mr. Chairman, I think everyone agrees that the Mexican human rights record continues to need attention. The greatest corruption in many cases is at the local level, but it has been at times and in some parts of the government pervasive.

I would hope that this hearing can show where Mexico has been but also where it is headed, and my view is that the trend line is unquestionably positive and that it can be enhanced further by working firmly with, rather than against, the Mexican Government.

I have to tell you that of the 17 members who met with President Salinas and his top advisors, we came away a view that this is an extraordinarily progressive administration, one that is pushing hard to eliminate the kinds of abuses in several areas, including human rights. I think we ought to recognize that very positive change. It is an evolution which began in the de la Madrid administration, continuing with enhanced vigor today.

Thank you, Mr. Chairman.

Mr. LANTOS. Thank you very much, Congress Bereuter.

Congresswoman Ros-Lehtinen.

Congressman Menendez.

Mr. MENENDEZ. For a question, Mr. Chairman?

Mr. LANTOS. Question or statement, whichever you choose.

Mr. MENENDEZ. Thank you, Mr. Chairman. I just have one or two questions.

Mr. Secretary, I came in a little late on your presentation, but I read it all, and I just want to—maybe I am confused, but I just want to make sure about what I think I understand. Your statement would lead one to believe who has not read NAFTA that, in fact, there are provisions in NAFTA that will help to raise the standards of human rights and democracy in Mexico. Is that the case? My understanding is that it does not inherently have any of those aspects to it.

Mr. SHATTUCK. No, Mr. Menendez, I didn't intend to imply that there was anything in NAFTA, the terms and language of NAFTA,

which would itself have a direct and immediate impact on human rights and democracy.

The thrust of the testimony, however, is that further engagement with the Government of Mexico and the people of Mexico, through the NAFTA process, will be very helpful in siding with those elements of reform that are under way in the country.

I also said, I believe before you came in, that I recognize that this is a very controversial area and that indeed there are those in Mexico who may be on the other side of NAFTA who are very much on the side of reform.

Mr. MENENDEZ. I am glad for the clarification, because I thought I missed something in my review of NAFTA. But I am concerned.

I want to get to the statement you just made, but before I do that, this is different, however, than the European Common Market which did establish standards of political rights, democracy, human rights, as part of the threshold which people and countries had to meet before they were allowed to be part of the bloc. Is that not the case?

Mr. SHATTUCK. There are provisions in the European Common Market that are broader in scope than in NAFTA.

Let me amend my last answer in one respect, however, and this is really a minor amendment—I still stand by the point that there are no specific human rights provisions in NAFTA. But I do think that the NAFTA supplemental labor agreement, which directly imports all aspects of industrial relations into the area that is going to be supervised in labor, will be a new element very much in terms of what this NAFTA agreement provides in the area of worker rights.

That doesn't mean that additional worker rights are being established, I don't mean to imply that, I am saying that there is a mechanism that directly addresses that issue in the supplemental trade agreement.

Mr. MENENDEZ. The reason I bring the Common Market example up, because it is not off-base to suggest that a trade agreement or in this case, as we saw the EC do, that raising these questions are in any way inappropriate when one considers the question at hand.

Let me ask you another question based upon your previous statement, and it is on page one of your statement at the bottom. You say, "To reject NAFTA would deprive Mexico of a strong incentive to continue reform and ourselves of the means to influence it."

But for the North American Free Trade Agreement, Mexico does not have an incentive to improve its human rights record, to go ahead and make sure that democracy, not one-party rule, does not continue to take effect? That, to me, is a disturbing statement.

Mr. SHATTUCK. Not but for, Mr. Menendez.

Mr. MENENDEZ. I know you didn't say "but for," but, "To reject NAFTA would deprive Mexico of a strong incentive."

Mr. SHATTUCK. I think there is an incentive in NAFTA to engage with the United States on a variety of issues that are not directly involved in the agreement—terms of the agreement itself.

I think the general relationship that gets promoted through NAFTA is very positive for the forces of democratic reform and institutional reform in the area of human rights. That is not to say

that there aren't other forces at work that may, in fact, have an impact, a positive impact, on democracy and human rights.

I do think the denial of NAFTA, at least in the short term—and we have no way of really assessing it on a much longer term basis, but certainly in the short term—would significantly reduce the leverage that the United States has with respect to Mexico on issues of democracy and human rights.

Mr. MENENDEZ. Two last questions, if I may, Mr. Chairman.

One is, in your discussion here, you talk about that the United States—as well as Mexico has raised on our side of the border—has raised several protests over torture and mistreatment by the police in Mexico of U.S. citizens, and it says 16 in 1992. Those are the ones that you raised. Are there more than that? My understanding from Armando Valladares, who was a former special Ambassador, is that there were hundreds of cases that were brought to the State Department's attention.

Mr. SHATTUCK. Certainly all the cases—I mean it is the job of the State Department to raise concerns that are brought to its attention concerning the treatment of U.S. citizens anywhere in the world, and the State Department has acted upon information that it has received.

The information that I have specifically with respect to the last 4 years is that there were complaints registered with our consulates in fiscal year 1990 that numbered 97. After investigation of those complaints, there were formal protests by the U.S. Government of 43 of those cases and discussion with the families and others in the case of all cases and other resolution.

In 1991, there were 60 complaints registered and formal protests in 27 cases; in 1992, there were 41 complaints registered and formal protests in 16 cases; and, in 1993, 40 complaints and 13 formal protests.

Mr. MENENDEZ. My last question is, Mr. Wirth, in testimony before the Senate in October, talked about how he saw some of the electoral processes in Mexico changing as a positive and talked about the electoral court of appeals as one of those changes that, in fact, would be positive.

But Mr. Reding, the director of the North American Project at the World Policy Institute, had the different point of view on it. He said, in his analysis—to quote him, “The PRI has six seats, nine counting three satellite parties that depend on governmental subsidies, to a total of five for the opposition, the PAN and PRD; six additional counselors are nominated by the President. The government characterized these as independent because they are subject to confirmation by a two-thirds vote of the Chamber of Deputies. With control of 63 percent of the lower house, the PRI can practically muster the two-thirds on its own, and should the requisite majority prove unattainable, counselors are selected by lot from the same list of Presidential nominees. Hence the president prevails one way or the other in ensuring his partisans a greater than 2-to-1 majority on the council and complete control of the electoral bureaucracy.”

Based upon that, where is the reform?

Mr. SHATTUCK. Well, I think the reforms are slowly unfolding. I mean I have been very clear, I hope, in my testimony to indicate



to you that we do not believe and we will not report in our 1993 human rights report that the reforms are completed by any means.

On the other hand, there are reforms in place that now prevent the legislature itself from sitting on contested elections, that that will go to the Federal Electoral Tribunal.

There are reforms in place that provide for leadership in terms of chairmanship of committees in both the Senate and the Lower House of opposition party members.

The process is proceeding. There is great demand for it, I believe, in the popular will in Mexico, and it is a process that the current administration, I think, has thrown itself generally behind and is pursuing reforms as it did in both 1990 through the electoral reform process then and 1993, in August and September of this year.

Mr. MENENDEZ. So the next President of Mexico will not be hand-picked.

Thank you, Mr. Chairman.

Mr. LANTOS. Mr. Secretary, if I may pursue a couple of questions pertaining to labor rights. My understanding is that, in the fields of human rights, and labor rights, Mexico is outstanding in terms of proclaiming these rights but subjecting them to very arbitrary interpretation.

As Mr. Reding of the New School for Social Research indicates, Mexico typically withholds legal recognition of labor unions not affiliated with the government. Let me quote from Mr. Reding. He says, "Labor rights are a case in point. For a union to be legally recognized, it must be registered with the Ministry of Labor. In practice, the Ministry only recognizes unions that are either affiliated with the government party, the PRI, or that in other ways take their cues from the President of the Republic. When independent unions try to strike, the Ministry of Labor uses the fact that they are unregistered and declares the strikes nonexistent and then calls on the police and the army to restore order."

In your view, is this a fairly accurate summary of labor relations in Mexico?

Mr. SHATTUCK. This is a very important issue in labor relations in Mexico, Let me answer by stating, as I have in other answers, both the positive and the negative. Let me start with the negative. The issue of labor union registration has long been a serious problem in terms of real implementation of freedom of association and the right to collectively bargain and strike.

Mr. LANTOS. You know as well as I do that all the totalitarian Communist regimes in Eastern Europe had thriving labor unions which were tools of the nondemocratic governments.

Mr. SHATTUCK. I agree, and I am saying that the history of the registration problem is a very problematic history. It does indeed indicate the limitations that have existed. I think what we have seen, again recently, is the emergence of an increasingly vigorous effort to challenge that registration process and a willingness on the part of the government to permit further registration.

In the state of Nueva Leon, in Monterrey, there is now a National Federation of Independent Unions. Some 70 percent of all workers in that state are totally independent and covered by the registration. They have, in fact, succeeded in registering.

The teachers union, which is now the biggest union in Mexico, has formally separated itself from endorsement of either political party and has declared its neutrality. I think that is a very significant development.

No question that the registration problem is a real one and one that needs to be much more loosened up before we can honestly say that there is a broad-based independent labor movement in Mexico. On the other hand, there is now considerably more independence in the labor movement in Mexico than there has been at any time.

Mr. LANTOS. Mr. Secretary, we all realize you have been in this job just a very short time, so my question is not directed at you, but has our government made demarches to the Mexican Government concerning repressive labor practices?

Mr. SHATTUCK. I will look into it.

Mr. LANTOS. Now you know there have been significant incidents of labor unrest that have taken place under the present government's tenure. How has this government responded to those incidents? Maybe you could describe one or two.

Mr. SHATTUCK. Yes. I am actually going to amend my last answer, because it occurs to me that very recently in an issue that arose outside of an American-owned maquiladora plant in Tijuana there was an arrest, or at least a detention, and then a turning around of a group who were demonstrating outside of that plant. They were American citizens in fact, and the Mexican immigration authorities objected to their presence there. The U.S. Embassy in Mexico very strongly demarched that process and—

Mr. LANTOS. I am familiar with that episode. I am really asking about Mexican citizens, the repression of Mexican labor and any demarche our Government may have made in that connection.

Mr. SHATTUCK. Yes. I will look further into that for you.

Mr. LANTOS. Are there any other tactics used by the Mexican Government to intimidate labor?

Mr. SHATTUCK. I am sure that there are. I am not going to sit here and make a blanket statement of what they might be, because that is not a subject that I have looked at closely. The issue of registration that both you and I focused on is the topic that has concerned me most in preparing for this testimony.

Mr. LANTOS. Fair enough.

Mr. Secretary, as you know, for several years, I was wearing another hat as chairman of the labor oversight committee, and one of my prime interests was child labor, principally in this country. Would you care to tell us what the record of Mexico is with respect to child labor?

Mr. SHATTUCK. The record is undoubtedly quite mixed and would not be satisfactory under our standards, but I am not, prepared to give you chapter and verse. I would note, however, that in the supplemental labor agreement under NAFTA there is a very clear system put into place that people in this country and in Mexico can use to file complaints in order to determine whether or not abuses of child labor standards have been occurring. Remedies can be issued under the supplemental labor agreement, and certainly our Labor Department and our Secretary of Labor will be very much engaged in that process.

Mr. LANTOS. Mr. Secretary, if I am not mistaken, Mexico has the highest or one of the highest rates on this planet in the field of industrial accidents. What can you tell us about this, and how does this impact on the rights of men and women to work in a safe workplace?

Mr. SHATTUCK. Well the information we have on that, Mr. Chairman, as I indicated in my opening statement, is that industrial safety is improving, within the Mexican context prior to NAFTA. Obviously, when NAFTA is in place the supplemental labor agreement will give further basis for us to engage and to have private complaints addressed. But improvements have been registered in that area.

Mr. LANTOS. Congressman Smith, I believe, has a question.

Mr. SMITH. Thank you very much, Mr. Chairman.

Just a couple of questions, Mr. Shattuck. I apologize for missing your oral statement, but looking briefly at your written submission, I note that you spoke a bit about the use of torture in Mexico. Could you discuss with the committee just how pervasive is torture, whether or not it is on the wane or is it increasing? What kind of sanction does the Federal Government give to it, if any, whether through law enforcement or it just not being a priority?

Mr. SHATTUCK. Well, this has been a major focus of our human rights interest in Mexico, as you know, Mr. Smith. We have, over the years, been particularly concerned about extrajudicial killings, torture, and disappearances. I am happy to say that over the last 3 years there has been significant evidence that the Government of Mexico is taking this subject very seriously, particularly with the creation of the National Commission on Human Rights and then further on the appointment of its first chair, Mr. Carpizo McGregor, to the Attorney General position. Since he was appointed in January of 1993, many of the investigations of torture cases that came through the Commission have proceeded to prosecution. There are now some 44 individuals from the Federal police and local police who have actually been tried and sentenced for human rights abuses. I am not testifying that this does not remain a serious problem, but I am very pleased to be able to state that the Government of Mexico agrees with us that it is a very serious problem and it is attempting to address it.

There is a long history of impunity in the context of Mexican law enforcement, and for too many years there were individuals who were not punished for this kind of behavior. But I think what we see are the burning fires of democracy and human rights which are beginning to get a little stronger than they were several years ago, and that is a very positive development.

Mr. SMITH. I know that specifically you are not here to discuss NAFTA, but I have noted in the America's Watch testimony, as well as in Amnesty International, the point that NAFTA provided a golden opportunity both during the Bush and the Clinton administrations to raise human rights. As a matter of fact, Amnesty says the silence has been deafening with regards to human rights in NAFTA.

As the point man for human rights, are you satisfied that either the previous administration or the current administration are being aggressive enough in making human rights a centerpiece?

I read the two sidebar agreements and, quite frankly, was profoundly disappointed in the mechanism for enforcement. Those of us who follow this know that Mexico has great laws on the environment and even some decent labor laws. At least some are better than other countries, yet it is in the area of enforcement where they fall down head over heels and go nowhere.

Did we miss an opportunity with NAFTA? Are you convinced that the enforcement mechanism is sufficiently strong to really make a difference?

Mr. SHATTUCK. Well, several points in answer to your question. First, there has been a consistent and regular human rights dialogue with the Mexican Government in the Clinton administration, most recently at the level of the Secretary of State on September 29, in his meeting with Secretary Solano. There is a regular process of pressing for reform practices that I have been describing, particularly the prosecution of torture cases and extrajudicial killings and the like. The interest level is very high and the inter-governmental relationship on human rights has been very good, and I think the process we have begun has been a contributing factor.

With respect to additional side agreements or areas in which NAFTA might have been amended or improved to address human rights, I think NAFTA itself is an instrument which can be used to continue the process of reform in the area of labor relations. I think that NAFTA could make a big difference to the forces of democracy and human rights at work both at the governmental level and at the grassroots level in Mexico.

Mr. SMITH. America's Watch, in their testimony, revealed that they have sent a letter to the President—to three Presidents frankly, or a prime minister and two Presidents—asking that a human rights summit be initiated for the purpose of trying to really get a handle on rights problems between the countries, and they enumerate a number of human rights issues that they think ought to be discussed.

One, have you seen that letter? And, could you provide your insights as to the advisability of such a summit? It seems to me, with all eyes focused on Mexico—and certainly they have every right to raise humane rights abuses here, and we certainly have some—this is an opportunity to really bring a lot of light and scrutiny. It was one of your Supreme Court Justices who said the greatest disinfectant a light. Certainly bringing more light to bear on these issue would be helpful. How about a summit?

Mr. SHATTUCK. I think that makes a lot of sense. Certainly as we approach the period where NAFTA is going to be voted on, and certainly if it is approved, I think that kind of summit would be a very constructive process. Of course, that there would be some difficulties in having that kind of a summit were NAFTA not to be approved. That is not to say I don't endorse such a summit. I totally endorse it. But I think the dynamic with the government would be considerably different if NAFTA were not to be approved.

Mr. SMITH. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. LANTOS. Mr. Secretary, as always, you have done an outstanding job. This has not been a particularly easy position for you

to defend, because what is really at stake here is the development of a degree of closeness with a neighboring country that quite properly raises in the minds of the Congress and the American people the kinds of questions we have been dealing with.

Once the decision is made to proceed with NAFTA—and on this subcommittee there are people strongly for NAFTA and others, like myself, who are strong opponents of NAFTA and will vote against NAFTA—once the decision is made, to unscramble the omelette is almost impossible. I do not really view those comments emanating from some sources that, if it doesn't work in 3 years or 2 years or 5 years, well, then we will renew and undo it. It would not be easy in Canada, the absolutely humiliating defeat that the Conservative Party suffered—the last I heard, they will have two members in Parliament, and they are number four in the ranking of the parties now is, to a very large extent, the result of the dissatisfaction of the Canadian people with NAFTA. I have little doubt in my mind that should NAFTA be approved there will be a tremendous and growing dissatisfaction on the part of the American people with NAFTA. But the unscrambling of the omelette will be as difficult for us as it is going to be now for Canada.

I also would like to suggest perhaps the only arena where you and I may fundamentally disagree, that in the weeks leading up to the decision by the International Olympics Committee on the Beijing Olympics, many argued that if Beijing given the Olympics, we would have all this influence, leverage and contact and human rights would just thrive and flourish in China.

I take the exact opposite view. Just as Beijing is now interested in getting the Olympics for the year 2004—and they know damn well they are not going to get it unless they clean up their human rights and labor rights act—Mexico's need to have a NAFTA will not go away. I believe NAFTA ought to be defeated partly on human rights grounds and labor rights grounds.

If I were a Mexican public official, I would push very hard for NAFTA, because it is a great deal for Mexico in more ways than one and the impetus to get it will be there even if on November 17, as I hope we will, it will be defeated.

But on behalf of all of us, pro and con, let me thank you for your usual eloquent and forceful presentation.

Mr. SHATTUCK. Thank you, Mr. Chairman.

Mr. LANTOS. I would like to ask the next panel to please come up: Ms. Holly Burkhalter, Washington director of Human Rights Watch; Mr. Pharis J. Harvey, executive director, International Labor Rights Education and Research Fund; Mr. Manuel Fuentes, Mexican labor lawyer and human rights activist; and Mr. Carlos Salinas, government program officer for Latin America and the Caribbean of Amnesty International.

We are very pleased to have all of you. All of the prepared statements will be entered in to the record in their entirety. I would be grateful if your oral comments could be abbreviated so we may have as much time for questions as possible.

We will begin with you, Ms. Burkhalter.

**STATEMENT OF HOLLY J. BURKHALTER, WASHINGTON  
DIRECTOR, HUMAN RIGHTS WATCH**

Ms. BURKHALTER. Thank you very much, Chairman Lantos. As always, it is a pleasure and a privilege to appear before you.

In the spirit of your own exceptionally courtly and gracious remarks in thanking your staff for putting this hearing together, something that I don't believe I see at any other subcommittee or any other committee in Congress, I would like to thank—

Mr. LANTOS. My colleagues don't depend on staff as much as I do.

Ms. BURKHALTER. I used to work for this institution, and I don't know of any members that don't depend wholly on their staffs.x

I would like to thank my colleague, Ellen Lutz, the director of the Los Angeles office of Human Rights Watch who is our Mexico researcher. She was invited by this subcommittee to testify, and unfortunately it wasn't possible for Human Rights Watch to bring Ellen out here to be with you, so this is distinctly the second string, I am afraid. But I will do my best to represent to you what my colleague would have liked me to say.

I am particularly grateful for this hearing emphasizing human rights in the context of NAFTA because, as Representative Smith has already pointed out in our behalf—and I think my colleagues from around the table share my view—human rights have not been the center focus of the lengthy debate around all other aspects of NAFTA.

I noted in a speech given in early September by Assistant Secretary of State for Latin American Affairs, Mr. Watson, who spoke to a group of businessmen in Chicago that there was not one syllable about human rights in his statement.

I was pleased by the straightforward talk in Secretary Shattuck's testimony, but I always hate to see the human rights issue sort of stuck into the Human Rights Bureau enclave. I insist that in addition to our good friend, John Shattuck, talking to us about human rights which we would expect, we need to see that from all of the administration's officials on Mexico and other countries. And I regret that it has not been a characteristic of most of the administration's pronouncements on Mexico, NAFTA, or any other aspect of U.S.-Mexican relations.

One particularly telling demonstration of that lack of emphasis and that squandering of opportunity to look at and to raise human rights and labor rights issues at this critically important moment was when the U.S. Trade Representative recently refused to take up for review a petition filed by my friend and colleague, Pharis Harvey of the International Labor Rights Fund. It was an excellent petition raising substantive and serious labor rights concerns, some of which my organization reports on and shares, freedom of association particularly. They refused to even review it, hold formal hearings, bring witnesses before them as you are doing today because allegedly none of those violations reached the threshold of labor rights conditions in the GSP law. And I believe also, as Pharis will probably inform you, their idea is that NAFTA is supposed to take care of all of this.

Well, there are no labor rights issues, at least freedom of association issues, rights of workers to assembly, speech and association,

contained in the NAFTA sidebar agreements, and I think that is a grievous oversight. x

I am well aware of the difficulty in getting consensus between the three partners on this, and I know that Mexico and Canada in particular were the sticking points. But the fact remains at the end of the day, Mexico was persuaded to accept a large degree of international interference, if you will, in its economic relationship. That is what NAFTA represents, and indeed there were some important concessions in the area of the environment and other areas which at the beginning of the process Mexico swore it wasn't going to accept. But at the end of the day it did accept them.

I regret that there wasn't similar attention to human rights issues and, in particular, freedom of association issues, so that so that unionists can organize across the political spectrum around their own economic interests. The fact that there is no attention to that issue in the sidebar agreements, no enforcement mechanism, nothing, zero, is really a grave disservice to Mexican human rights activists and Mexican labor, and I think it is an opportunity missed in the context of this trade agreement.

I do say that speaking as someone who takes no position—my institution takes no position on NAFTA, per se. Whether it should be voted in or voted out goes beyond our competence and beyond our mandate.

Mr. LANTOS. It is the only organization in the country.

Ms. BURKHALTER. But we do have a strong opinion about the absence of human rights conditions and guarantees in it, and I wish to say so quite strongly at this hearing.

We have, as my testimony shows, a whole variety of human rights concerns, many of which were raised by Secretary Shattuck himself. But without challenging the secretary's remarks, I would have to take a less rosy view of some of the issues that he raised.

It is indeed true that political assassinations both by members of the Federal Judicial Police itself or by PRI thugs closely associated with the government are on the wane, and 1993 was a much better year than previous years.

However, I can't sit in front of you and say that 1993 was a good year when you consider that the Cardinal of Guadalajara, the Honorable Juan Jesus Posadas Ocampo, was killed at the distance of about one foot with a hail of bullets along with six people around him.

Many Mexican human rights leaders say that Cardinal Posadas Ocampo was the only independent voice in an area of Mexico that is basically run by drug lords and mafiosi hand in glove with the PRI. To lose a leading human rights figure in a hail of bullets and then to learn that the government was up to its eyeballs in the—first, Mexican Government's the word on that killing, as you remember, which just happened last May, was that the cardinal was caught in some kind of a drug trafficker crossfire. That turned out to be a complete lie. Finally, the truth comes out that Federal Judicial Police aided and abetted the assassins who managed to get into an airplane at the airport, take off, and land 2 hours later without interference.

That says that Mexico indeed does have a very long way to go. We welcome the increased prosecutions, but we would like to know

more about them. If you are able, as chairman and members of the subcommittee, to obtain actual information about these convictions and on what people were convicted, we would be very grateful to have it, because that is something we have not been able to obtain. We have the figures, but we don't have the names of the agents or the violations on which they were charged, and if that is something perhaps Mr. Bereuter was able to ascertain, it would greatly enhance our ability to monitor human rights in Mexico if we had that.

Mr. BEREUTER. We will make a request.

Ms. BURKHALTER. Thank you so much.

Among the other issues that didn't come up that I would like to highlight is one that I know Congresswoman Ros-Lehtinen was very involved with in the past year, which is the near deportation of a number of Cuban political immigrants, refugees, whom the Mexicans were going to very swiftly turn right back to Cuba, had it not been for an uproar led by the Congresswoman and others on this committee and in the U.S. Government.

But I would also say that, while we have welcomed the creation of the National Commission on Human Rights, the real proof of the pudding is whether or not the Government takes the Commission's recommendations. I am hoping that now that the fact that the former head of the Commission is the attorney general we will start to see much more of that, but the jury is definitely out.

I would like to move directly to some of our recommendations, which Congressman Smith has already suggested. We think that before the vote on NAFTA, it would be a very big contribution to human rights in Mexico and in the United States if the three heads of state were to get together and publicly raise and commit themselves to some human rights issues, and I have itemized them in my testimony.

It would be a tremendous opportunity, for example, for all three governments to announce that they are ratifying the American convention—Mexico is the only country of the three that has—but also, importantly, that all three governments would abide by the jurisdiction of the Inter-American Court; none have. If they were to do so—and I realize this may sound Utopian in the context of today, but it actually is and would provide a legal mechanism that does not currently exist for victims of human rights abuses in all three countries to come before an international body with a sterling reputation and have their grievances adjudicated.

Failing that—and I don't think we are likely to see the United States ratify the American convention and all three governments abide by the jurisdiction of the court, which is what I think most human rights monitors would most like to see in the context of adjudicating disputes—and in the absence of any kind of mechanism within the sidebar agreements on human rights and labor rights, the only thing I can recommend is that the Clinton administration commit itself to using mechanisms under section 301, which is the law of the land and permits plaintiffs in our country to come forward with grievances against not just Mexico but any foreign government and bring an action. The USTR can take an action and impose tariff penalties for abuses judged to be unfair trade practices.



Now I don't take a position on unfair trade practices such as dumping and patents and copyrights, that is not my brief. Labor rights are, and this Congress has determined that such things as union busting, harassment of union organizers, not permitting unions, independent unions, to be certified and all of the other issues you raised, those are found to be unfair trade practices, and indeed they are. They affect the cost of production, they affect the trading relationship, and if the United States is not going to incorporate some manner of protection in that area for Mexican workers themselves as well as American workers, in the NAFTA, then we had better get ready to use something else.

Now our experience with the GSP, as Mr. Harvey will tell you, has been that the administration has thumbed its nose at the law of the land and said, "No, we are not even going to look at the petition." So I am not very sanguine that we can expect to see the Clinton administration use the instrument that is still available to it under section 301, but it is a last opportunity to do so whether NAFTA is passed or not passed, and I would urge the administration to consider that I would also urge them to change the regulations so that an organization such as mine, which does not have an economic interest in such matters—it doesn't hurt us or help us if we import widgets from Mexico, our only interest is human rights—and as such we don't have standing to file a 301 petition would like to file precisely because we are disinterested and the regulations currently do not permit that.

But as near as I can tell, the 301 mechanism is the only thing left since Congress, in its wisdom, adopted a fast track procedure that does not really permit the Congress to play a large role in creating mechanisms that I think are needed.

I think I will stop with that. I am sure I have gone over my time. Thank you so much.

[The prepared statement of Ms. Burkhalter appears in the appendix.]

Mr. LANTOS. Thank you very much. Mr. Harvey.

#### **STATEMENT OF PHARIS J. HARVEY, EXECUTIVE DIRECTOR, INTERNATIONAL LABOR RIGHTS EDUCATIONAL AND RESEARCH FUND**

Mr. HARVEY. Thank you very much, Mr. Chairman. It is a distinct honor and privilege to be here with my colleagues in the human rights field, particularly my colleague from Mexico, Mr. Manuel Fuentes, who is one of Mexico's most distinguished labor lawyers. He has been in the trenches for a long while. He can tell you from his own experience what I can only tell you from my study and from what I have learned from him and others.

I have given a fairly lengthy bit of testimony, and I will not try to repeat that testimony here. Of course, we will ask that it be submitted in the record, as I know it will be.

In my oral remarks I simply want to highlight a few things. The first is a belief that the new opportunity which the elections in Canada yesterday give us to reopen negotiations to bring about a genuinely progressive agreement with Mexico and Canada is an opportunity that ought not to be lost.

It will not have escaped your attention, as it didn't mine, that Assistant Secretary Shattuck pointed to the human rights improvements in Mexico almost exclusively in this calendar year—that is, since the Clinton administration took office.

I think one would have to say that during the first 4 and a half years of the Salinas administration, while the negotiations went forward, they did so under the comfortable and cozy assumption that human rights, labor rights, environmental rights, would not be a significant part because no one in the last administration was willing to make them a part of the negotiations. It was only when those matters became of serious concern to a new administration that they became of serious concern to the government in Mexico.

I find it very difficult to believe that once the pressure of negotiating a NAFTA is removed and a NAFTA is in place which in fact does not provide what Mr. Clinton assured us he would strive for in his campaign speeches, that Mexico will continue the momentum that it has lately achieved in making some progress in labor and human rights, and therefore I would suggest that the better course of wisdom for us is to take advantage of the opportunity that is now given to us by a new government in Canada which wants to renegotiate, to ask our President to recognize that the possibility of passing this NAFTA is virtually gone, and that a genuine NAFTA that will meet a genuine consensus of the American, Canadian, and Mexican people for a progressive relationship among our three countries must be reopened.

Second, I would say that there is a need to reopen the side agreements at the very least, and particularly—and I will speak only to the labor side agreement. The protections for labor are not only weak, but they are a step backward from current existing U.S. trade law.

In current law, the Generalized System of Preferences, the Overseas Private Investment Corporation, and section 301 of the 1988 Trade Act provide that, for concessional access to U.S. markets, it is required that countries be taking steps to afford a full range of workers' rights, including the rights of association and collective bargaining, a prohibition on forced labor, a minimum age for children, and satisfactory conditions of work including wages, hours, and health and safety.

By adopting a side agreement with Mexico which pulls it out of the GSP program at the same time it exempts it from any consideration of any labor rights with any teeth—except the possibility at the end of a torturous process of providing up to \$20 million sanctions for a country, to be paid back to that country, by the way, for its persistent failure to enforce its own laws relating to child labor, health and safety, and minimum wage, three important but minor areas of problems in Mexico, (minor in that they are made minor by the lack of the broader range of labor rights in Mexico whereby workers can, themselves act to protect their own rights)—by stepping back from existing trade law, we are moving into a free trade regime in which the progress we had made even under the Reagan and Bush administrations in conditioning an international trade regime on greater respect for the processes and the people who make products for trade—we are stepping back from that now

if we accept a NAFTA with its side agreements and the possible extension of that into other countries of the hemisphere.

The second reason for pulling back from the labor side agreements is that they depend on existing law. In the testimony you have heard this afternoon, it has been inferred that the problems in Mexico are not with the law but the enforcement of that law. Without going into the detail here, you will note from my written testimony that it is focused almost entirely not on problems of enforcement—Mr. Fuentes can speak very well and eloquently on that problem—but on the problems that exist in the law itself in Mexico which effectively gut the possibility that workers can actually find a way to achieve their own rights.

Finally, the procedures for adjudicating problems within the side agreements are entirely too limited, relating only to child labor, health and safety and minimum wages, and so slow that by the time a child labor case could be brought to its final point, unless the children were under 11 years old when the case began, they would already be legal workers by the time the case would be adjudicated. This could be accomplished through amendments to the side agreement implementing legislation.

It is the position of the administration that, because, the side agreements are not a part of NAFTA they therefore do not need congressional approval, but that because they will require some implementing language they ought also to be taken up as a part of the NAFTA fast track consideration. That contradiction is a very dangerous precedent for the handling of future trade agreements as well as being a problem in the current one.

If the Congress were to insist upon amending the implementing legislation for the side agreements to assure (1) that industrial relations are subject to the full panoply of grievance procedures, (2) that the necessity of showing an alleged violation of internationally recognized basic worker rights is a part of a persistent pattern of failure to enforce national law is removed, and (3) simplifying the grievance procedure so that it provides an effective rather than a cosmetic remedy—if those amendments were placed, it would require the renegotiation at least of this portion of this the agreement and make it possible for us to begin to move toward a more progressive agreement with Mexico and Canada.

Finally, I would be remiss in my own institutional obligations if I did not ask this committee to exercise its own voice in protesting against the administration's failure to even consider a GSP petition that is well documented and concerned with the rights of workers in Mexico that have been long documented by the ILO and by independent human rights organizations in Mexico.

Unfortunately, on October 5, the administration announced that it had rejected the petition we submitted on Mexico but to this day has issued not one single word as to why they have rejected that petition. This is a lapse of administrative integrity which leaves the argument unable to be joined. Until such time as the administration decides to announce the reasons for denying that petition, I believe it should be a subject of this committee's investigation and protest.

I hope you have had a chance to look at the material I have submitted and would be happy to answer questions on that.

[The prepared statement of Mr. Harvey appears in the appendix.]  
Mr. LANTOS. Thank you very much, Mr. Harvey, and we shall pursue the matter you just discussed.

Mr. Fuentes.

**STATEMENT OF MANUEL FUENTES MUNIZ, MEXICAN LABOR LAWYER AND HUMAN RIGHTS ACTIVIST; ACCOMPANIED BY ROBERT O. WEINER, PROGRAM COORDINATOR, LATIN AMERICA AND THE CARIBBEAN, LAWYERS COMMITTEE FOR HUMAN RIGHTS**

Mr. WEINER. Thank you, Mr. Chairman and members of both subcommittees.

I am Rob Weiner of the Lawyers Committee for Human Rights. On behalf of Mr. Fuentes, I will be summarizing his remarks in English and, at the risk of some confusion, in the first person, and summarize the statement that he submitted earlier today.

My name is Manuel Fuentes. I appear before you not only as only as a member of nongovernmental human rights organizations but also as a practicing labor lawyer. Some of the workers I represent are unionized yet still seek the opportunity to bargain and decide collectively on matters pertaining to their employment. Others are granted individual workplace protections by Mexican legislation but seek nonetheless redress of serious violations of their rights in the law. All of these workers are largely frustrated in their efforts by a government policy which not only tends but actually intends to suppress the degree to which these hopes may be realized.

Human rights work in Mexico, as in most other places, the is not an exact science. However, all sources at hand coincide in that in Mexico the cumulative incidents of human rights abuses of a variety of types is annually in the hundreds if not thousands of cases.

You have already heard and will continue to hear of the hundreds of annual complaints of torture received by the Governmental Human Rights Commission, the hundreds of opposition party adherents killed during the first 1,000 days of the Salinas presidency, another 70 disappeared between 1989 and 1991, and the dozens of journalists physically attacked or otherwise intimidated for raising certain issues or treating them in a manner adverse to the government's interests.

Therefore, I would like to direct most of my remarks today to the context of labor rights with regard to which I can best draw on my professional experience.

As a labor lawyer, I have been able to witness numerous acts of violence against workers peacefully exercising their right to association, to assembly, and to strike. Let me offer two examples. In 1991 in Vera Cruz, police, acting at the direction of the Labor Ministry which had hurriedly declared the workers' strike illegal, arrived in the predawn hours, violently removing some 500 striking workers from outside the Rio Blanco textile factory. Fifteen of the workers were detained, and three were then charged with killing a worker at another work site which had been involved in a related labor dispute.

The medical report on this occasion indicated that the victim was shot and killed after the workers were taken into custody. Three workers, however, remain in jail almost 2 years later.

Another example with which I am all too familiar is that of Cleito Nijimo Urbina who was killed inside the Ford Motor Company in January 1989. I represented the Ford workers during these events. Days after a protest against the Ford Company's illegal reduction of worker bonuses, some 300 armed men who were not employees of the plant but who wore Ford uniforms and who carried company identification badges, entered the plant during normal working hours. They advanced on the workers, shooting and killing Mr. Nijimo Urbina. Although this happened inside the plant in front of numerous witnesses, precious little has ever been done to apprehend and prosecute the guilty parties who remain at large until this day. These occurrences are more troubling because my government has not addressed them in a meaningful fashion.

I imagine that most of the members here are also well aware of the extremely low wages and dangerous working conditions which characterize much of Mexico's formal employment. I will not take your time with a recitation of all of these facts other than to mention that Mexico is among the world's leaders in workplace accidents at an average of 2,000 a day, which represents an increase, not a decrease, over the last several years.

I would like to point out, however, that such conditions do not exist in a vacuum. They are a result of the fundamental fact confronting Mexican workers, the absence of any reasonable opportunity to form independent unions and bargain collectively for that which is due them as employees. Independent unions, as they are properly understood by you and me, constituted by their members who meet and vote to decide fundamental issues of direct concern to them practically do not exist in Mexico.

In Mexico, we suffer from a government-controlled system of officially sponsored and manipulated unions who are as likely if not more than private employers to take steps antithetical to the best interests of the workers they claim to represent.

In the last 8 years, the Labor Ministry, which is the government agency responsible for registering and authorizing the existence of unions, had granted only one independent union charter without been forced to do so after protracted litigation. I was the lawyer for that union and well recall the circumstances which prompted the government to act. Some 400 seamstresses were crushed to death in the 1985 Mexico City earthquake. Photographs of employers pulling machines out of the rubble while victims remained trapped and dying triggered a flood of protests concerning the appalling conditions under which these persons worked.

After hurriedly granting the workers a union charter in the light of adverse publicity, the government soon began in earnest to do everything it could to prevent its growth. A union which began with 6,000 members has been reduced to less than 10 percent of its original membership. Perhaps this incident, more than any other, illustrated for me that my government is capable of responding to scrutiny and protest, particularly where international attention is focused, but once that pressure is off, it reverts to the same

policies of suppressing activity over which it does not exercise control.

Even once it has recognized an officially sanctioned union, the Labor Ministry continues to exert tremendous influence over its activity. For instance, any strike which does not have the Ministry's authorization is expressly illegal, regardless of the circumstances of the underlying dispute or of the attitude of the workers toward the strike.

This fact isn't surprising, at least not once the nature of the relationship between labor and government is understood. The secretary general of a union is granted by Mexican law the absolute powers of a monarch. Although the secretary general is not elected by the workers nor subject in any way to their review or sanction, he or she can unilaterally bind them to a collective bargaining agreement that they have never seen, let alone discussed or voted on. While it may seem hard to believe, in Mexico there are thousands of workers who are union members bound by a collective bargaining agreement who don't even know it.

On the eve of its announcement that it would negotiate the North American Free Trade Agreement with the Government of the United States, the Mexican Government also announced creation of the National Commission on Human Rights. This is a deeply flawed body, one which is simply not designed to redress problems in the areas of greatest concern. The Commission is specifically prohibited from addressing violations of electoral and labor rights. The Commission has no prosecutorial powers and no authority to compel prosecutors to prosecute or even investigate cases. As a result, it comes as very little surprise that recent studies show less than 40 percent of the Commission's findings and recommendations have even been partly implemented.

The poor showing by prosecutors highlights an overall problem of administration of Justice. Mexican police authorities continue to be largely immune from charges for mistreatment of prisoners in their custody. The para-police squads who move in to club protesters appear, by virtue of their ability to attack without drawing police intervention or subsequent prosecution, to enjoy some form of official protection. Indeed, it is the office of the attorney general, which includes the Federal Judicial Police, that, according to the head of the National Commission on Human Rights, is among the most frequent violators of human rights, by virtue of police abuse as well as prosecutors' failure to pursue investigations and prosecutions in matters developed by the Commission.

Mexico has also designated some special tribunals for labor disputes, largely taking some matters away from the court system and putting them before bodies that depend not on the judiciary but, rather, on the executive. These tribunals have done virtually nothing to redress either the violation of basic association rights or the wholesale violation of numerous provisions governing minimum terms and conditions of work. Cases are interminably prolonged by the tribunals, lasting normally 7 or 8 years.

About 3 years ago, in fact, I received a notice of a favorable decision on a long-standing petition for reinstatement of my client, a government employee. The employer, however, has since refused to

comply. My client is now more than 70 years old. He was wrongfully fired from that job in 1958.

The government's control of the labor movement denies workers even the protection of international mechanisms such as the International Labor Office of the United Nations. As you know, the ILO accepts complaints only from unions. Individual workers or even groups of workers lack standing. Since Mexican unions are controlled by leaders who refuse to grant authorization to a complaint, Mexican workers are closed out of this forum.

When we in Mexico view the obstacles to the various channels for redress, the courts, the Human Rights Commission, the U.N.'s ILO, and our own union hierarchy, we are especially concerned about the manner in which labor issues between our two countries have been addressed in the side agreement to the free trade pact. Although the agreement mentions workers' rights to organize and obtain decent working conditions as a goal, they exclude these issues from the enforcement mechanism. Only governments are able to raise complaints and only to enforce those laws within the permitted subject areas which form the lowest common denominator between the countries' legislation. This, I believe, is no coincidence. It is, however, something the Mexican Government and business community are counting on. As President Salinas reported to his supporters in Mexico earlier this year, the labor side agreement will have absolutely no impact on business as usual.

I would also like to note in closing some items in the report of your State Department which was submitted to the Congress concerning the human rights situation in Mexico for last year. First, I would like to note that it does not sufficiently address the Mexican Government's responsibility for the violations which the Department itself acknowledges. By establishing impunity as the general rule for such abuses, government officials have condoned and even encouraged continuation of a pattern. It must be recalled in this regard that Mexico does not present the situation of a weak civilian government battling with limited success to control security forces. The PRI represents one of this century's most underrated examples of dominant one-party rule, lasting some 60 years. Its ability to act is not open to question; its will clearly is.

The State Department notes the constitutional guarantees of freedom of assembly and association, yet it does not manage to follow up on any of the examples of police or para-police groups storming peaceful demonstrations, nor does it offer a complete picture of the degree of control exerted by the government over the labor movement, and it overstates the degree and quality of unionization in Mexico.

As I indicated before, one of the great difficulties facing human rights workers, particularly concerning workers' rights, the fact that many avenues are denied those who suffer the abuse as they try to organize and then exercise collective rights, in this regard, the State Department's report is particularly troubling.

It mentions, for example, the low rate of unionization in certain areas, particularly the maquiladora industry in Baja, California. However, the Department notes that the unions have not instituted complaints on these grounds either to the Mexican Government or to the ILO. Given the degree of government control over PRI-

aligned unions and the level of intimidation and violence which it is prepared to countenance against those who are less compliant, the Department's implicit reliance on the lack of complaints is truly surprising.

Anyone with experience before the ILO will tell you the real reasons, to which I referred earlier, why there were not more complaints made by unions in Mexico, and I can assure you as a labor lawyer it is not for lack of violations. Betraying as a virtue the adverse experience of workers seeking avenues to secure basic rights does not further the purpose for which these human rights reports were intended.

There are other items which are included in two documents by the Lawyers Committee for Human Rights which I have submitted for inclusion in the record with my testimony.

Let me close by reiterating my thanks for the committee's invitation to testify and my hope that they will continue to press for these issue to be at the forefront of the discussion concerning Mexico and U.S. policy.

Mr. LANTOS. I want to thank both of you gentlemen for what was a very substantive meaty and significant statement.

Mr. Salinas—

Mr. BEREUTER. May I interrupt just a second?

Mr. LANTOS. Of course.

Mr. BEREUTER. Thank you Mr. Chairman.

Mr. Chairman, I just wanted to compliment all of the panelists as well. It is obvious there is a great deal of work to be done in improving conditions in Mexico, and I think your contributions are very valuable.

I interrupt at this time only because I have constituents waiting in the office and I may not be able to stay until Mr. Salinas has completed his full testimony, and I apologize for that fact if that is the case.

Thank you.

Mr. LANTOS. Thank you very much.

Mr. Salinas.

**STATEMENT OF CARLOS SALINAS, GOVERNMENT PROGRAM OFFICER FOR LATIN AMERICA AND THE CARIBBEAN, AMNESTY INTERNATIONAL USA, WASHINGTON OFFICE**

Mr. SALINAS. Thank you for the opportunity to testify. In the name of Amnesty International U.S.A., would like to commend the leadership of both subcommittees, particularly Chairman Lantos and Chairman Torricelli, as well as the ranking minority members, Congressman Bereuter and Congressman Smith. I think it is commendable that at a politically sensitive time such as this you would embark on addressing this very difficult issue, but I am glad the silence has been broken.

We have in our testimony expressed our disappointment that now two successive U.S. administrations have been silent on the problem of human rights in Mexico. After hearing Assistant Secretary Shattuck's testimony, we are further saddened, in fact not just disappointed but saddened, to see that the political expediency that is so necessary to pass NAFTA is perhaps clouding the issues and clouding the true picture of what is going on in Mexico.



First of all, I want to clarify, Amnesty International, U.S.A., has no position—on the North American Free Trade Agreement. Perhaps a way to understand this—and this may also shed some light on some of the claims that are being made by the administration with regard to NAFTA and human rights—is that Amnesty's experience has been that different kinds of governments engage in human rights violation. Whether they are totalitarian or whether they are so-called democracies, we have found that, north, south, east, west, governments violate human rights.

We have also found that governments with differing trade provisions violate human rights, as the Governments of Chili or Argentina did—free trade, liberal economies, with serious human rights violations. So I think it is important that you understand Amnesty's position, why we work on all issues and have no position whatsoever on NAFTA, per se.

We do believe that NAFTA was a missed opportunity for the administration. We also are saddened that human rights seem to be obfuscated. We heard from Assistant Secretary Shattuck that the trend seems to be positive. He cited two main bodies as evidence: One, the creation of the National Human Rights Commission; and, second, this year's appointment of Jorge Carpizo McGregor, the first president of the Commission, to the head of the Attorney General's office.

The National Human Rights Commission is an important body and has created a political space in Mexico, giving human rights official recognition that the issue did not enjoy previous to its creation.

However, there are some serious deficiencies with the Human Rights Commission. One, it has no ability to enforce its recommendations. Two, members of the Commission themselves have acknowledged that their policy of accepting only fully documented cases—that is, if I am tortured and I want to make a claim, I have to produce a certificate that says my bruises are consistent with the allegations of torture I am claiming.

Despite this prerequisite for any claim, the members of the Commission have acknowledged that most methods in Mexico do not leave many visible trauma indications. Except for beatings and kickings which detainees are often subjected to, there are other heinous methods of torturing someone. For instance, placing a plastic bag over someone's head until they nearly suffocate, or submerging their head under water, or suspending them from the wrists for prolonged periods of time, or depriving someone from sleep or from food, or perhaps one of the most original and also despicable methods is shooting carbonated water mixed with chili powder up the detainee's nose. Most of these methods leave no visible trauma, and yet these methods are pervasive. The Commission itself acknowledges that it is a shortcoming.

But perhaps most important, the lack of enforcement is a key. The Commission depends on the Public Ministry, which is headed by the Attorney General, to enforce its recommendations. After the Commission makes an investigation, it issues a series of recommendations, some of which say free the person, or drop the charges, prosecute someone etc.

The history of the relations between the Commission and the Public Ministry has been rough, to say the least. The first Attorney General had to leave after, among other things, it was revealed his office had been bugging the offices of the Human Rights Commission. The second Attorney General left under a very big cloud of controversy, and now we have this new Attorney General, Jorge Carpizo McGregor.

We in Amnesty shared the perception of many of our Mexican and other colleagues that Jorge Carpizo's ascendancy to the Public Ministry was positive but there have been disturbing developments. One of the acts that Carpizo undertook which was praised as something to be commended was his creation of a human rights office within the Public Ministry. This human rights office was to ensure that even within the Public Ministry there was sensitivity to the work of the Commission, to the work of other NGOs. Yet this past September 21, the Executive Director of this new office, Maria Guadalupe Andrea Barcena, who was also a very well known human rights activist, resigned. Along with her resignation was a very biting letter that I would recommend the subcommittees obtain and the subcommittees investigate.

In her letter she charged that, "My office finally found itself in the basement of the ministry, both physically and conceptually, where our work was thwarted by doublespeak, corruption, and espionage." She concluded this letter saying, "The Public Ministry continues to be a cruel giant when it comes to the weak and a coward when it comes to the powerful." These are serious charges that the Ministry, despite the ascendancy of Carpizo McGregor, is not living up to its duties.

Those are important points that need to be raised with regards to what Assistant Secretary Shattuck has brought because he is saying the National Human Rights Commission is evidence that the Mexican Government is indeed on the right track and the appointment of Carpizo is further proof. But there is other evidence dealing with the Commission and the Administration of Salinas de Gortari.

On the legal front, there have been many changes. In fact, they began before President Salinas. They began with the 1917 Constitution of Mexico, which is a strong document when it comes to human rights protection. This was followed in 1986 by the Federal Law to Prevent and Punish Torture. During the presidency of Salinas this law was changed and the penal codes reformed.

Unfortunately, these legal reforms have not yielded any concrete result that we can discern. In fact, not one police officer has been convicted and prosecuted under the 1986 Federal Law to Prevent and Punish Torture, not in its original or its modified reform of 1992. That obviously is extremely disturbing.

But back to the Commission. We can engage in a very big numbers game if we want. We can say, well, they have issued X number of recommendations, and some of them have resulted in prosecutions and some of them have not. But let me point out a few caveats when it comes to the recommendations that the Commission issues.

First, we have got to remember that not all cases are accepted. In fact, we have seen that the Commission itself has agreed with

the assessment that its policy of only accepting documented cases is wrong.

Second, the recommendations that are told to be resolved, the numbers that are given, may actually underestimate the number of the recommendations that are only partially enforced or ignored. One governor may say, "Yes, we agree with your recommendation," and then not act on it.

Finally, in August of 1992, members of the Mexican government admitted to Amnesty International delegates that even when the recommendations are followed and guilty officers are dismissed from duty, there is no effective mechanism that will ensure that whoever is dismissed, say, in Chiapas, may end up in Guadalajara or that they will be simply moved from one position to the next.

Finally, we want to make the point that dismissals from office or suspension without pay is not tantamount to prosecution for human rights crimes.

Finally, the Human Rights Commission of Mexico has had difficulties with the organizations on the ground that have been carrying out human rights work way before the Commission was even conceived in Mexico. In fact, *Proceso* quoted reports that the Centro Fray Bartolomé de las Casas in Chiapas as well as the Bi-National Center of Human Rights in Tijuana have been unduly attacked at times by the National Human Rights Commission, something that I was personally able to verify when members of the Centro Fray Bartolomé de las Casas were recently in Washington. So that is important and something we have to remember.

But I don't want to sound hopeless; there is much that can be done.

Step one, we have to stop obfuscating the issues. We have to figure out, are there any real prosecutions for human rights crimes or not? That is information that needs to come out. The Mexican government publishes lists of numbers: This month we have prosecuted these many people; or they will give you a list of names. One time we were at a meeting with the Deputy Attorney General. I gave him a list of names that the Embassy had sent us saying, "We have prosecuted these people." I handed it over to him. He looks at it and says, "Oh, no, none of these are human rights crimes," they were all apparently drug-related charges or corruption charges. So we have to figure out, when they are saying, "We have prosecuted so many people," are we talking human rights crimes or are we talking any other number of prosecutions? There are ways we can take advantage of this moment.

The Foreign Ministry of Mexico has done positive things at the U.N. level up to a point and also at the OAS level. There are several things that the U.S. administration could do.

The U.S. Ambassador to Mexico could place emphasis on the persisting problem of impunity, perhaps drawing upon the experience of former U.S. Ambassador to Honduras Crecencio Arcos, who was widely praised in Honduras for having spearheaded the movement against impunity.

Second of all, the State Department should submit to Congress a very detailed analysis of the statistics that the Human Rights Commission and the Attorney General's office produces. In other

words, we need to figure out which ones of these are actual prosecutions under the 1986 law et cetera.

The U.S. mission in Mexico should undertake public contact with NGO's and indigenous groups in Mexico, and with victims and survivors of state violence, such as the two gay activists that were recently released from the Mexican jail after having spent over a year in jail and having been beaten by both police and fellow detainees.

Finally, I would strongly urge that Assistant Secretary Shattuck visit Mexico and meet not only with government officials but meet with the Mexican nongovernmental officials and survivors of state violence. Perhaps then we can move together and confront the issue as it truly is, a problem that refuses to go away and a problem that we will not be able to solve by pretending things are moving in the right direction or pretending that good intentions are equivalent to good action.

Thank you very much.

[The prepared statement of Mr. Salinas appears in the appendix.]

Mr. LANTOS. I want to thank you, and I want to thank, again, Ms. Burkhalter and all of you gentlemen for your substantive and serious testimony before these two subcommittees.

I will want to study very carefully your written presentations, and if I may, I will submit some questions in writing. But before we close, I want to turn to my friend and colleague from California to see if he has any questions.

Mr. EDWARDS. Thank you, Mr. Chairman. I compliment you, Mr. Chairman, and your staff for arranging this very important hearing.

I guess what astonishes me is that, as a rather careful reader—I read the *New York Times* and the *Washington Post* and local California papers—the true story about Mexico has not been told. Every day, it seems to me—and this includes some fine TV programs—that this just doesn't come out, and I just wonder if any of the witnesses can understand that.

Now we get Somalia every day, we get NAFTA every day, we get Haiti every day, and those are very important. We get them over and over again. We don't get something very substantive like this about Mexico. From what I hear on a day-to-day basis, Mexico is doing fine—oh, goodness, they are buying everything in sight from the United States, the trade surplus that we have is wonderful, and things are going to get better and better. You just don't hear this, and I think it is absolutely shocking, Mr. Chairman.

Mr. LANTOS. Well, Congressman Edwards, you could not be more right. Those of us who are opposed to NAFTA on labor and human rights grounds, grounds of child exploitation, do not have nearly the access and the resources to highlight these issues than this unbelievable panoply of business and financial interests that are hell bent on shoving NAFTA down the throat of the Congress of the United States. But I don't think they will succeed.

I want to thank all of you again. It was very valuable. You have struck a blow for decency, and hopefully we shall prevail.

This hearing is adjourned.

[Whereupon, at 4:28 p.m., the hearing was adjourned.]

# APPENDIX

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TESTIMONY OF ASSISTANT SECRETARY FOR HUMAN RIGHTS  
AND HUMANITARIAN AFFAIRS JOHN SHATTUCK

HOUSE FOREIGN AFFAIRS SUB-COMMITTEE ON  
INTERNATIONAL SECURITY, INTERNATIONAL ORGANIZATIONS  
AND HUMAN RIGHTS

TUESDAY, OCTOBER 26, 1993

(37)

MR. CHAIRMAN, MEMBERS OF THE SUB-COMMITTEE, THANK YOU FOR INVITING ME TO APPEAR BEFORE YOU. THE DEBATE OVER THE NORTH AMERICAN FREE TRADE AGREEMENT IS A BROAD ONE AND TOUCHES ON NEARLY ALL ASPECTS OF OUR RELATIONSHIP WITH MEXICO. I APPRECIATE THE OPPORTUNITY TO CONTRIBUTE CONSTRUCTIVELY TO THAT DEBATE FROM MY POSITION AS ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS. YOU AND YOUR COLLEAGUES HAVE HEARD MUCH OF THE ECONOMIC DEBATE --PRO AND CON-- ON NAFTA AND I WILL NOT ATTEMPT TO REPEAT THAT FOR YOU. INSTEAD, I WOULD LIKE TO ADDRESS THE STATE OF DEMOCRACY AND HUMAN RIGHTS IN MEXICO AND HOW NAFTA WILL HAVE A POSITIVE IMPACT ON IT.

THE CONDITION OF DEMOCRACY AND HUMAN RIGHTS IN MEXICO HAS IMPROVED SIGNIFICANTLY IN THE PAST FEW YEARS, ALTHOUGH SUBSTANTIAL IMPROVEMENT IS NEEDED. MEXICAN CITIZENS HAVE DEMONSTRATED INCREASING AWARENESS OF THEIR RIGHTS, AND CONCRETE STEPS HAVE BEEN TAKEN BY THE GOVERNMENT TO OPEN THE MEXICAN POLITICAL SYSTEM AND REDUCE HUMAN RIGHTS VIOLATIONS. NAFTA WILL REINFORCE THOSE WITHIN MEXICO WHO ARE SEEKING REFORM AND WHO ARE MODERNIZING MEXICO AND ITS POLITICAL SYSTEM. WE CAN PROMOTE THESE DEVELOPMENTS BY ENCOURAGING REFORM EFFORTS UNDERWAY AND STRENGTHENING BILATERAL TIES, BOTH OF WHICH NAFTA WOULD FOSTER. TO REJECT NAFTA WOULD DEPRIVE MEXICO OF A STRONG INCENTIVE TO CONTINUE REFORM AND OURSELVES OF THE MEANS TO INFLUENCE IT.

THE RESTRUCTURING OF THE MEXICAN ECONOMY IS CHANGING THE ROLE OF THE STATE, CREATING AN INTERNAL DYNAMIC FOR REFORM WHICH IS ALREADY REFLECTED IN THE POLITICAL SYSTEM. FURTHER IMPROVEMENTS IN THE MEXICAN POLITICAL SYSTEM, HOWEVER, ARE CLEARLY NECESSARY AT ALL LEVELS. THE GOVERNMENT, IN DIALOGUE WITH THE OPPOSITION, HAS GRADUALLY CARRIED OUT A WIDE RANGE OF POLITICAL REFORMS DESIGNED TO ENCOURAGE POPULAR PARTICIPATION AND IMPROVE THE FAIRNESS OF ELECTIONS. ALTHOUGH THE PROCESS HAS BEEN STRENGTHENED, PROGRESS TOWARDS A MORE EQUITABLE AND OPEN POLITICAL SYSTEM IS EVOLVING AT A SOMEWHAT SLOWER PACE THAN PROGRESS IN THE ECONOMIC SPHERE.

SINCE 1929, THE GOVERNMENT OF MEXICO HAS BEEN CONTROLLED BY THE INSTITUTIONAL REVOLUTIONARY PARTY, PRI BY ITS SPANISH ACRONYM, OR ITS PREDECESSOR, WHICH HAS WON EVERY PRESIDENTIAL RACE AND EVERY GUBERNATORIAL RACE UNTIL THE ELECTIONS OF 1989 AND 1992. THERE CONTINUE TO BE EPISODES OF VIOLENCE SURROUNDING CLOSE ELECTIONS AT THE STATE AND LOCAL LEVELS AND CREDIBLE REPORTS OF ELECTION AND VOTER FRAUD. MANY MEXICAN VOTERS LACK CONFIDENCE IN THE ELECTORAL SYSTEM AND IN THE COMMITMENT OF SOME PRI LEADERS TO ABIDE BY THE REFORMS WHICH THE SALINAS GOVERNMENT AND THE MEXICAN CONGRESS HAVE PUT IN PLACE.

YET THAT IS ONLY PART OF THE STORY: THE GOVERNMENT OF MEXICO HAS RESPONDED POSITIVELY TO ITS CITIZENS' GROWING DEMANDS FOR REFORM OF THE POLITICAL SYSTEM. ELECTORAL REFORMS IN 1990 AND AGAIN IN 1993 HAVE PROFESSIONALIZED AND MADE MORE

IMPARTIAL THE COUNTRY'S ELECTORAL APPARATUS. IN 1990, THE FEDERAL ELECTORAL INSTITUTE WAS CREATED TO ADMINISTER AND REGULATE ELECTIONS. IT HAS SINCE PRODUCED A NEW VOTER REGISTRY AND A COMPUTERIZED, MORE TAMPER-RESISTANT VOTER IDENTIFICATION CARD SYSTEM AND HIRED AND TRAINED MORE THAN 2,000 PROFESSIONAL STAFFERS.

REFORM EFFORTS ALSO INTRODUCE GREATER INDEPENDENCE AND IMPARTIALITY IN THE ADJUDICATION OF ELECTORAL DISPUTES, INCLUDING THE CREATION THIS YEAR OF AN ELECTORAL COURT OF APPEALS WHOSE JUDGMENTS CANNOT BE OVERRULED BY THE PRESIDENT OR THE CONGRESS.

THESE REFORMS HAVE OPENED UP THE POLITICAL SYSTEM AND OPPOSITION PARTIES HAVE MADE SIGNIFICANT GAINS. TODAY, 12-15 MILLION MEXICANS (OUT OF 90 MILLION) ARE GOVERNED BY THE OPPOSITION AT THE STATE OR LOCAL LEVEL. OPPOSITION PARTIES CONTROL TEN PERCENT OF MEXICO'S MUNICIPALITIES AND THE NATIONAL ACTION PARTY (PAN) HOLDS THREE OF THE 31 GOVERNORSHIPS, AS A RESULT OF WINNING TWO ELECTIONS AND HAVING THEIR CANDIDATE APPOINTED FOLLOWING A DISPUTED ELECTION.

AS WE PREPARE OUR ANNUAL STATE DEPARTMENT HUMAN RIGHTS REPORTS, WE ARE WATCHING CLOSELY TO SEE THE EFFECTS OF THESE REFORMS. ALTHOUGH-INTERNATIONAL ELECTION MONITORS HAVE NOT BEEN INVITED BY THE MEXICAN GOVERNMENT TO OBSERVE ELECTIONS, THE CARTER CENTER AND THE NATIONAL DEMOCRATIC INSTITUTE HAVE BOTH BEEN ACTIVELY INVOLVED WITH THE MEXICAN GOVERNMENT AND NGOS TO MONITOR AND IMPROVE ELECTORAL PROCEDURES. A RECENT



MEXICAN LAW ALSO ALLOWS FOR GREATER OPPORTUNITIES FOR MEXICAN CITIZENS TO ACT AS IMPARTIAL, DEMOCRATIC ELECTION MONITORS.

PROGRESS HAS ALSO BEEN REGISTERED IN RECENT YEARS IN THE AREA OF HUMAN RIGHTS, ALTHOUGH CONTINUED IMPROVEMENTS ARE CLEARLY NECESSARY. SERIOUS VIOLATIONS OF HUMAN RIGHTS STILL PERSIST IN MEXICO, AS WE HAVE DETAILED IN OUR ANNUAL HUMAN RIGHTS REPORT. AMONG THEM ARE THE USE OF TORTURE, WIDESPREAD BRUTALITY AND INSTANCES OF EXTRA-JUDICIAL KILLINGS BY POLICE AND A FREQUENT FAILURE TO PUNISH THOSE RESPONSIBLE FOR SUCH TRANSGRESSIONS. A CULTURE OF IMPUNITY STILL AFFECTS TOO MANY MEMBERS OF THE POLICE AND HAS HINDERED EFFORTS TO ENFORCE A GREATER RESPECT FOR HUMAN RIGHTS. DESPITE DOWNWARD TRENDS IN THE STATISTICS, POLICE STILL USE TORTURE TO COERCE CONFESSIONS FROM DETAINEES. THERE ARE FREQUENT REPORTS OF ARBITRARY DETENTION AND POLICE BRUTALITY.

ALTHOUGH THE MAJORITY OF INSTANCES OF POLICE ABUSE, ARBITRARY ARREST AND TORTURE HAVE BEEN DIRECTED AGAINST MEXICAN CITIZENS, THERE HAVE ALSO BEEN INSTANCES OF ABUSE AGAINST AMERICAN CITIZENS. IN 1992, THE US GOVERNMENT FORMALLY PROTESTED THROUGH OFFICIAL CHANNELS 16 CASES OF TORTURE OR OTHER MISTREATMENT BY POLICE. IT SHOULD BE NOTED, OF COURSE, THAT THE MEXICAN GOVERNMENT HAS ALSO RAISED WITH US A NUMBER OF ALLEGATIONS OF ABUSE OF THEIR NATIONALS IN THE U.S.

OTHER PROBLEMS INVOLVE THE RIGHTS OF THE INDIGENOUS. BECAUSE MANY OF MEXICO'S INDIGENOUS ARE MARGINALIZED AND IMPOVERISHED, THEY ARE OFTEN THE VICTIMS OF HUMAN RIGHTS

VIOLATIONS IN RURAL LAND DISPUTES, SUCH AS FORCIBLE EJECTIONS AND POLICE VIOLENCE. SOME HUMAN RIGHTS GROUPS HAVE CALLED FOR AN AMNESTY FOR MANY INDIGENOUS PEOPLE WHO, THE GROUPS CHARGE, ARE DENIED ACCESS TO FAIR TRIALS BECAUSE OF LANGUAGE AND CULTURAL BARRIERS, AS WELL AS POVERTY. CRIMINAL PROCEDURES WERE RECENTLY AMENDED TO PROVIDE INTERPRETERS FOR NON-SPANISH SPEAKING INDIGENOUS PEOPLE.

THIS ADMINISTRATION IS DEEPLY CONCERNED ABOUT HUMAN RIGHTS IN MEXICO AND CONTINUES TO RAISE HUMAN RIGHTS CONCERNS AT THE HIGHEST LEVEL, MOST RECENTLY AT A MEETING BETWEEN FOREIGN MINISTER SOLANA AND SECRETARY CHRISTOPHER ON SEPTEMBER 29. WHILE WE HAVE REGISTERED CONCERN ABOUT MEXICO'S HUMAN RIGHTS RECORD, WE FIND NO EVIDENCE THAT THE GOVERNMENT CONDONES ABUSES. ON THE CONTRARY, PRESIDENT CARLOS SALINAS DE GORTARI HAS PUBLICLY AND STRONGLY STATED THE IMPORTANCE OF PROTECTING HUMAN RIGHTS AS A MATTER OF MEXICAN DOMESTIC POLICY AND HAS LENT THE AUTHORITY OF HIS OFFICE TO EFFORTS TO REDUCE VIOLATIONS AND TO CREATE A CULTURE OF RESPECT FOR HUMAN RIGHTS.

THE MOST NOTABLE INITIATIVES BY THE MEXICAN GOVERNMENT HAVE BEEN THE JUNE 1990 ESTABLISHMENT OF THE NATIONAL COMMISSION ON HUMAN RIGHTS AND THE APPOINTMENT OF ACKNOWLEDGED AND HIGHLY RECOGNIZED HUMAN RIGHTS ADVOCATES TO SENIOR GOVERNMENT POSITIONS. THE COMMISSION HAS A MANDATE TO INVESTIGATE VIOLATIONS OF HUMAN RIGHTS BY GOVERNMENT AGENCIES, TO REPORT PUBLICLY ON THOSE ABUSES, AND TO PROMOTE HUMAN RIGHTS EDUCATION OF THE PUBLIC. THE COMMISSION SETS UP SEPARATE INVESTIGATIONS

INTO AREAS OF SPECIAL CONCERN SUCH AS DISAPPEARANCES, TREATMENT OF INDIGENOUS PEOPLE, ATTACKS ON JOURNALISTS AND PRISON CONDITIONS. FROM MAY 1992 TO THE PRESENT, THE COMMISSION'S EFFORTS RESULTED IN DISCIPLINARY ACTION AGAINST 1,031 GOVERNMENT EMPLOYEES. IN 348 OF THOSE CASES CRIMINAL CHARGES HAVE BEEN FILED. IT WILL TAKE SOME TIME FOR THE 348 CASES TO MOVE THROUGH THE JUDICIAL SYSTEM. WE SHALL TRACK THESE CASES CLOSELY.

SINCE ENABLING LEGISLATION WAS PASSED IN JUNE 1992, SIMILAR HUMAN RIGHTS COMMISSIONS HAVE BEEN ESTABLISHED AT THE STATE LEVEL IN EACH OF MEXICO'S 31 STATES.

OTHER SIGNIFICANT EFFORTS TO BRING MEXICO'S HUMAN RIGHTS RECORD INTO COMPLIANCE WITH INTERNATIONAL STANDARDS INCLUDE LEGISLATION RECENTLY ENACTED MAKING CONFESSIONS INADMISSIBLE AT TRIAL UNLESS OBTAINED IN THE PRESENCE OF DEFENSE COUNSEL AND A JUDGE OR PUBLIC MINISTRY OFFICIAL, TRAINING PROGRAMS TO RAISE PROFESSIONAL STANDARDS WITHIN THE FEDERAL POLICE AND THE APPOINTMENTS OF RESPECTED HUMAN RIGHTS ACTIVISTS AS THE HEAD OF THE MEXICO CITY HUMAN RIGHTS COMMISSION AND AS ATTORNEY GENERAL FOR THE STATE OF CHIHUAHUA.

THESE EFFORTS DIRECTLY ADDRESS THE HUMAN RIGHTS PROBLEMS BUT, AS WITH ALL REFORMS, THEY WILL TAKE TIME AND CONTINUED EFFORT TO BE FULLY EFFECTIVE. SOLUTIONS TO MEXICO'S PROBLEMS ARE FURTHER HINDERED BY A WEAK JUDICIAL SYSTEM THAT SOMETIMES FAILS TO OBSERVE THE RIGHTS DEFENDANTS ARE GRANTED BY LAW.

ALSO, FACTORS SUCH AS LOW PAY AND HIGH CASELOADS CONTRIBUTE TO CORRUPTION AND INEFFICIENCY WITHIN THE JUDICIAL SYSTEM.

IN JANUARY 1993, PRESIDENT SALINAS APPOINTED JORGE CARPIZO MCGREGOR, THE FORMER PRESIDENT OF THE NATIONAL HUMAN RIGHTS COMMISSION, AS ATTORNEY GENERAL, PROVIDING THE COMMISSION WITH A FIRM ALLY IN THE MOST IMPORTANT LAW ENFORCEMENT AGENCY IN THE COUNTRY. SINCE JORGE CARPIZO BECAME ATTORNEY GENERAL, 1205 OFFICIALS IN HIS OFFICE HAVE LEFT, EITHER BECAUSE THEY WERE FORCED TO RESIGN OR BECAUSE THEY WERE NOT WILLING TO ABIDE BY CARPIZO'S HIGHER STANDARDS. FURTHERMORE, 300 OFFICIALS HAVE BEEN PROSECUTED AND 45 ARE NOW IN JAIL SERVING SENTENCES THAT AVERAGE OVER 5 YEARS EACH.

GIVEN THIS PROGRESS, APPROVING NAFTA WILL GIVE US THE CHANCE TO WORK MORE CLOSELY WITH THE CURRENT GOVERNMENT AND ITS SUCCESSOR TO REINFORCE DEMOCRATIC REFORM. NAFTA SUPPORTS THE DYNAMIC FOR REFORM. IT WILL HELP PROMOTE MORE OPENNESS IN THE MEXICAN GOVERNMENT AND REINFORCE REFORM ELEMENTS THAT WISH TO MODERNIZE MEXICO AND ITS GOVERNMENT. I MIGHT ALSO ADD THAT, AS GOVERNMENTS AROUND THE WORLD ARE FINDING OUT, AN OPEN, FREE-MARKET ECONOMIC SYSTEM BRINGS RELENTLESS PRESSURE ON THE POLITICAL SYSTEM TO BECOME MORE RESPONSIVE AND ACCOUNTABLE.

THE ISSUE OF WORKERS' RIGHTS HAS RECEIVED CONSIDERABLE ATTENTION IN THE NAFTA DEBATE. REPORTS CONTINUE TO ARISE ABOUT THE INABILITY OF WORKERS TO ORGANIZE, TO BE ABLE TO WORK IN A SAFE ENVIRONMENT AND BARGAIN INDIVIDUALLY AND COLLECTIVELY FOR WAGES SUFFICIENT FOR DAILY SUPPORT. ALTHOUGH THE MEXICAN LABOR

FORCE HAS ENJOYED A HIGH LEVEL OF UNIONIZATION, THE UNIONS ARE FOR THE MOST PART LINKED TO THE PRI. THESE TIES, HOWEVER, ARE WEAKENING AS THE GOVERNMENT INSTALLS VARIOUS DECENTRALIZATION MEASURES AND AS INTERNAL MOVEMENTS WITHIN THE UNIONS STRIVE TOWARD INDEPENDENCE. UNDER THE CONSTITUTION, WORKERS' RIGHTS ARE PROTECTED AND IMPLEMENTED UNDER THE MEXICAN FEDERAL LABOR LAWS AND SOCIAL SECURITY LAWS, ALTHOUGH THE STANDARD WAGE OF UNIONIZED WORKERS IS GENERALLY HIGHER THAN THAT OF NON-UNIONIZED WORKERS.

THE SAFETY CONDITIONS IN THE MEXICAN WORKPLACE ARE SLOWLY IMPROVING. ENFORCEMENT OF HEALTH AND SAFETY RULES IS CONSIDERED EFFECTIVE FOR LARGE COMPANIES, INCLUDING MOST MAQUILADORAS, ALTHOUGH THE COMPLIANCE OF SMALL PRIVATE BUSINESS IS LESS SATISFACTORY. PAYROLL TAXES ARE ADJUSTED ACCORDING TO THE SAFETY RECORDS OF EACH BUSINESS OPERATION, AND EACH WORKPLACE IS SUBJECT TO LABOR AND MANAGEMENT SAFETY AND MONTHLY HEALTH COMMITTEE INSPECTIONS.

THE NORTH AMERICAN AGREEMENT ON LABOR COOPERATION, AS THE SIDE AGREEMENT ON LABOR IS CALLED, PROVIDES MUTUAL COMMITMENTS TO ENFORCE NATIONAL LAWS CONCERNING CHILD LABOR, HEALTH AND SAFETY, MINIMUM WAGE AND INDUSTRIAL RELATIONS. IMPORTANTLY, IT PROVIDES MECHANISMS TO GIVE THE SAFEGUARDS FORCE BY CREATING A COMMISSION FOR LABOR COOPERATION THAT WILL BE ABLE TO OVERSEE IMPLEMENTATION OF THE AGREEMENT, ENCOURAGE VOLUNTARY IMPROVEMENT AND, AS A LAST RESORT, IMPOSE SANCTIONS IN SOME DOMAINS.

THESE PROVISIONS GIVE THE SIDE AGREEMENT A DUAL IMPACT:

- COOPERATION AMONG THE U.S., MEXICAN AND CANADIAN GOVERNMENTS TO IMPROVE WORKING CONDITIONS AND COMPLIANCE WITH LABOR LAWS, AND
- PROVISION OF AUTHORITY WITHIN MEXICO FOR THE FEDERAL LABOR AUTHORITIES TO MONITOR GOOD FAITH COMPLIANCE OF LABOR LAW ENFORCEMENT FOR INDUSTRIES UNDER STATE GOVERNMENT JURISDICTION.

IN CLOSING, I WOULD NOTE THAT THE GENERATION TAKING ITS PLACE IN THE LEADERSHIP OF MEXICO HAS HAD FAR GREATER EXPOSURE TO THE WORLD THROUGH ADVANCEMENTS IN TELECOMMUNICATIONS AND TRAVEL THAN HAVE PREVIOUS GENERATIONS: THIS HAS CREATED A DEMAND FOR BETTER GOVERNMENT AND GREATER GOVERNMENT ACCOUNTABILITY. THE REFORMS THAT THE MEXICAN GOVERNMENT HAS INSTITUTED REFLECT -- AND ARE INDEED PROPELLED -- BY THAT CHANGE. NAFTA WILL HASTEN THOSE REFORMS, AND, BY STRENGTHENING OUR BILATERAL RELATIONSHIP WITH MEXICO, WILL LEAD TO AN EVEN MORE PRODUCTIVE DIALOGUE ON CONTINUED IMPROVEMENTS IN HUMAN RIGHTS AND DEMOCRACY.

THANK YOU.

Human Rights in Mexico and the NAFTA  
Testimony of Holly Burkhalter, Human Rights Watch  
Before the Subcommittee on International Security,  
Human Rights, and International Organizations

Tuesday, October 26, 1993

Thank you for holding this important hearing, Mr. Chairman, and for inviting me to testify. My name is Holly Burkhalter, and I am the Washington Director of Human Rights Watch. I appear here today on behalf of our Americas Watch division.

At today's hearing, I would like to begin with my policy recommendations to the U.S. Government, followed by a summary of our concerns about human rights in Mexico. I have taken the liberty of including within this testimony a discussion of human rights involving Mexicans on the American side of the border -- namely abuses of their rights by the U.S. Border Patrol, and am attaching to this testimony an appendix which itemizes our recommendations to the U.S. government about addressing this important human rights problem. In bringing these concerns to your attention in the context of the debate over the NAFTA, I would like to make it plain that my organization does not take a

position for or against the treaty. We do believe that consideration of this unprecedented trade relationship should have been an occasion by all three governments to seek enhanced protection for human rights, and it still can be.

We are particularly grateful to you for holding this hearing on human rights in Mexico, because we believe that human rights issues have been slighted by both the Bush Administration and the Clinton Administration in the course of considering the NAFTA. Environmental and trade issues have received close attention from the executive branch, and have been reflected in the supplemental agreements. In response to this attention, the Mexican government has made significant concessions in these areas.

Regrettably, human rights issues were simply not on the trade table in NAFTA discussion between our government and Mexico. (For example, in the supplemental agreement on labor, the issues of freedom of association, assembly, and collective bargaining for unionists and worker association are simply not addressed.) Absent from the discussion of NAFTA have been such issues as torture and due process abuses in a criminal justice system laced with corruption; electoral fraud and election-related violence; harassment, intimidation and even violence against independent journalists, human rights monitors, environmentalists, workers, peasants and indigenous peoples when they seek to exercise their rights to freedom of expression and assembly; and impunity for those who violate fundamental human rights.

We believe that it is not too late for our government to bring these issues to the forefront of the debate on NAFTA, and to encourage positive actions by the Mexican government. Accordingly, in a letter sent today, we called upon President Clinton and the Canadian Prime Minister to meet with President Salinas at a human rights summit to discuss human rights issues and mechanisms that Mexico, Canada, and the U.S. can adopt to address these concerns in the context of the NAFTA. In particular, we have recommended that the Government of Mexico undertake the reforms needed to ensure human rights protections and political accountability, including the following:

- commit to fully investigate, prosecute, and punish anyone who engages in or is responsible for human rights abuses, even if doing so exposes corruption or other misconduct at the highest levels of government;

- provide absolute guarantees for the protection of political rights for all governmental critics and opponents;



-- make it legally possible for aggrieved individuals to apply meaningfully independent and impartial courts for redress when their political rights, including their rights to participate in elections, are violated; and

-- ensure free and fair elections in 1994 and subsequently by granting all political parties equal access to campaign financing, the media, and the use of the national colors; permitting impartial and independent election observers to monitor elections and have full access to all election machinery including computers; barring the military from putting on displays of force on election day that deter voters from going to the polls; and establishing an independent, impartial electoral commission in which no political party or alliance of parties dominates and the Minister of Government plays no role.

The three countries also should discuss U.S. violations of basic human rights within its borders, including such issues as immigration issues, police brutality, the death penalty, and prison conditions. An area of particular concern to human rights groups and to the Mexican government is abuses against persons suspected of illegal immigration across the Southwest border. In the past 18 months, Human Rights Watch has focused particular attention on human rights violations by the U.S. Border Patrol, and recommended ways in which complaints of violations by the Border Patrol might be addressed through the creation of an independent commission,<sup>1</sup> improved training, and tighter discipline for the force itself, including criminal prosecution for serious abuses such as murder, rape and assaults. (A copy of those recommendations is attached to this testimony.)

Finally, we urge the United States, along with Mexico and Canada, to commit itself at this meeting to full acceptance of international machinery capable of ensuring that victims of rights abuses have an impartial forum for seeking redress. All three governments should ratify the American Convention on Human Rights, and should agree to be bound by decisions of the Inter-American Court of Human Rights, the judicial body of the Organization of American States. Accepting the Inter-American Court's jurisdiction would provide victims of rights abuses in all three countries with impartial, independent legal machinery to which they could apply when domestic remedies to correct human rights abuses are lacking.

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<sup>1</sup>Representative Xavier Becerra (D-CA) has introduced legislation to create such a commission. Hearings on the bill, H.R. 2119, were held last month in the House Judiciary Committee's Subcommittee on International Law, Immigration, and Refugees.

When the Executive Director of Americas Watch, Juan Mendez, testified at a congressional hearing on Mexican human rights practices last June, he called upon the Congress to incorporate labor rights enforcement mechanisms into the NAFTA side agreements, noting that a strong enforcement mechanism is one in which the victim of an act that appears to be a violation of solemn human rights commitments can bring a case before an impartial adjudicating body, to seek a serious investigation and eventually to obtain meaningful redress. It is unfortunate that neither the NAFTA supplemental agreements nor the NAFTA implementing legislation contain any such mechanisms for addressing serious human rights abuses. We hope that in considering special trade relationships like the NAFTA for other countries, which is expected in the future, the Congress will insist that human rights be fully incorporated into the language of the trade treaties themselves.

A summary of Americas Watch's concerns follows:

#### Summary of Concerns

Despite the extraordinary media attention now being directed at Mexico in connection with the North American Free Trade Agreement (NAFTA) ratification debate -- and the Mexican government's continuing efforts to put its human rights problems in the best possible light -- Americas Watch's concerns about human rights abuses in Mexico in 1993 are virtually unchanged from prior years. Torture and police abuse, election-related violence, interference with freedom of expression and association of independent trade unionists and peasant and indigenous rights activists, intimidation and harassment of human rights monitors and election observers, and attacks on journalists are continuing problems. Moreover, despite a new round of legal reforms and personnel changes, impunity for those responsible for these acts continues.

In January 1993, President Salinas heightened expectations that he would rein in rights abuses when he named Dr. Jorge Carpizo as his third Attorney General. Carpizo, a distinguished jurist and scholar, solidified his reputation for integrity and commitment to human rights during his tenure as the first President of the CNDH. One of his principle tasks was to repair the reputation of the Federal Judicial Police (FJP), an agency contaminated by ties to drug traffickers, whose agents have tortured and even murdered with impunity.

On March 1, 1993, Jesús Rioja Vázquez, a former FJP agent, was arrested after he went on a rampage in Hermosillo, Sonora during which he machine-gunned to death four people and ran over a fifth with his truck. At the time he was working for the FJP commander in Hermosillo as a *madrina*, or free-lance police agent. Rioja Vázquez had previously been implicated in the January 1990

FJP murders of the Quijano Santoyo brothers, and a warrant for his arrest had been issued. But although his whereabouts were well known, no steps were taken to bring him to justice and thus prevent the massacre.

Since assuming office, Attorney General Carpizo has announced several rounds of dismissals of federal drug agents identified as having connections with drug traffickers. He also filed charges against Guillermo Gonzalez Calderoni, a FJP Commander who served as General Director of Aerial, Maritime, and Terrestrial Interception of Narcotics under Carpizo's predecessor, Ignacio Morales Lechuga. Gonzalez Calderoni was implicated in human rights abuses, including the 1991 torture and murder of the Quijano brothers, and corruption: according to Carpizo he amassed a fortune including a cattle ranch and a fleet of trucks while in office. Unfortunately, the criminal charges pending against Calderoni do not include torture or homicide.

Ten months into Carpizo's tenure, the FJP is still plagued by corruption and human rights abuses. For example, an investigation into the May 24, 1993, murder of Archbishop of Guadalajara Cardinal Juan Jesus Posadas Ocampo and six other persons in the Guadalajara airport revealed that several FJP agents assisted in the operation.

Attorney General Carpizo compromised his reputation as a human rights champion by supporting a new law that doubles the amount of time prosecutors may detain criminal suspects involved in organized crime before presenting them to a court (most torture occurs in the period before criminal suspects are brought before a judge); by implementing a new program to set up roadblocks on federal highways to thwart arms and drug trafficking and prevent kidnappings (the move reverses President Salinas' July 1990 decision to eliminate police checkpoints on the nation's highways which had long used by police for extortion); by refusing to have face to face meetings with the press; by not disclosing the names and criminal charges, if any, brought against fired FJP officers; and by not prosecuting to the fullest extent of the law former officers who engaged in human rights abuses. In September, his handpicked human rights liaison officer, children's rights activist María Guadalupe Andrea Bárcena, quit complaining that deceit, corruption, and the lack of will to uphold justice in the Attorney General's office made her job impossible.

Clearly worried about negative human rights publicity when Mexico entered into free trade negotiations with the United States and Canada in 1990, President Salinas took steps to demonstrate that he had his country's human rights problems under control. His most significant human rights reform was the creation, in June 1990, of the National Human Rights Commission, an ombudsman agency that has reviewed and issued recommendations

in hundreds of cases, a large percentage of which involve torture, homicide, illegal deprivation of liberty, and inhumane prison conditions. In just three years the CNDH has expanded to become an enormous, constitutionally mandated government bureaucracy with more than 600 staff members and its own building. Despite mandate limitations (the CNDH is barred from investigating violations of political and labor rights and may not look into matters that fall within the jurisdiction of a court) and the inability to enforce its recommendations -- which all too often are ignored by responsible government agencies, the CNDH's hundreds of recommendations about murder, torture, arbitrary detention, and other abuses are proof that serious human rights problems persist.

Nevertheless, the CNDH could be more effective. Its independence -- in fact as well as in law -- from all authorities must be strengthened and it should develop a better working relationship with and champion the efforts of nongovernmental Mexican organizations that strive to promote human rights. In certain, sensitive cases, it has done just the opposite. For example, in Chiapas, senior military officials accused the Catholic church-affiliated and highly respected Fray Bartolomé de las Casas Human Rights Center of spreading "odious lies" about the military, "defending criminals," and "obstructing justice." The charges stem from the Fray Bartolome de las Casas Center's efforts to document torture and abuse by military officials in two rural communities in March 1993. Soldiers searching for two fellow officers who had vanished while on patrol illegally raided homes, confiscated or destroyed property, tortured suspects, and arbitrarily arrested at least 17 persons. The Center denounced the abuses, after which the military responded by charging that the Center had coached witnesses into fabricating testimony.

The Government CNDH investigated the incident and in its recommendation backed the military's assertions that the Center obstructed justice. Independent human rights groups, including the Minnesota Advocates for Human Rights, carefully investigated the military's and the CNDH's accusations and found them to be unfounded.

The CNDH also needs to be more responsive to individual victims of human rights violations. Currently, the CNDH only examines cases where torture is well documented and physical evidence exists; it has refused to consider psychological torture to be torture. Moreover, the CNDH never recommends compensation for victims, nor does it not complain when persons accused of torture are charged with lesser crimes, such as abuse of authority or administrative infractions, even though, under Mexican law, this can prevent a victim from obtaining redress.

In October, Americas Watch released a report on Intimidation of Activists in Mexico which examines government interference

with core political rights of six categories of governmental critics or opponents: human rights monitors, labor organizers, campesino (peasant) and indigenous rights activists, environmentalists, journalists, and election observers. As that report documents, individuals that publicly challenge the government or the PRI face an array of tactics designed to bring them into line or immobilize them.

Typically, the government tries to woo independent activists with incentives including government jobs, lucrative consulting opportunities, or promises of government action in one area in exchange for silence about another. Those who refuse to conform or be silent may be subjected to threats and other forms of harassment. A wide repertoire of instruments of intimidation are used including wiretaps, having activists or their advisors followed, "friendly warnings" from government officials, and anonymous death threats. Stubborn activists may be jailed, often on dubious charges, or in extreme cases subjected to physical violence or killed.

For example, for several years independent human rights activist Victor Clark Alfaro, Director of the Binational Center for Human Rights (CBDH) in Tijuana, has been subjected to efforts to silence him. In 1990 the CBDH issued a report documenting torture and mistreatment of 75 youths detained in Tijuana's juvenile detention facilities.<sup>2</sup> Shortly afterwards Clark received death threats on his telephone answering machine and veiled warnings from Mexican government officials that the CBDH would be closed.

In April 1993, the CBDH published a report on torture and corruption in the Baja California state judicial police that included 84 cases of torture, and alleged that drug traffickers were buying police credentials from corrupt officials.<sup>3</sup> Many of the report's findings were independently supported by the state's own Human Rights Commission. Nonetheless, the chief of security for the State Attorney General alleged that he had been defamed and slandered, and the public prosecutor filed criminal charges against Clark. An appellate court has now dismissed those charges presented to it on lack of evidence grounds. Meanwhile, Clark's offices have been broken into, staff members have received telephone death threats, and madrinas (free lance police agents) have kept watch on his office. While he is continuing

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<sup>2</sup> Centro Binacional de Derechos Humanos, A.C., "Secundo Informe Sobre Derechos Del Menor Torturado: El Caso de Tijuana, B.C. Mexico," 1990.

<sup>3</sup> Centro Binacional de Derechos Humanos, A.C., "Tortura y Corrupción: Un Mal Endemico (Tijuana, Baja California, Mexico)", 1993.

his work, Clark is preoccupied with the security of his staff and the police informants who provided him with the data for his report.

Arturo Solís Gómez, President of the Centro de Estudios Fronterizos y Promoción de los Derechos Humanos, A.C. (CEFPRODHAC) in Tamaulipas has been the focus of a similar intimidation campaign waged by state authorities where human rights abuses have long been of serious concern. Many of those abuses are linked to drug trafficking and associated corruption by police and prison guards.

While in the past many of the cases documented by CEFPRODHAC involved federal judicial police, in 1993 the dominant pattern changed and most of the most serious cases of torture and abuse reported to CEFPRODHAC involved preventive police in the border cities of Matamoros and Reynosa, and judicial police in the border town of Río Bravo. At the same time, reported cases of abuse in the state prison persisted at previous levels.

According to a CEFPRODHAC bulletin, this increase in state cases coincided with the inauguration of governor Manuel Cavazos Lerma in February 1993. Instead of receiving the cooperation of the new state leadership in combatting these abuses, CEFPRODHAC has found itself at the center of a public campaign to discredit it. CEFPRODHAC reports that it has been accused by State Attorney General Raúl Morales Cadena and State Director of Prisons Francisco Castellanos de la Garza of "protecting criminals." It further claims that it has been accused by the PRI and two smaller political parties, the Mexican Authentic Revolutionary Party (PARM) and the Cardenist Front of National Reconstruction Party (PFCRN) in Matamoros of being spies for foreign interests because it receives funding from the Ford Foundation and other U.S.-based non-governmental philanthropic institutions.

Independent union leaders and their lawyers are particularly vulnerable to tactics aimed at pressuring them to curtail their activities. One of the most common tactics used to impede their efforts involves the misuse of the criminal justice system. Agapito González Cavazos, head of the Day Laborers' and Industrial Workers Union in Matamoros, led the fight to win higher wages for workers than allowed by a longstanding pact between the government and the official union, a move that angered U.S. maquiladora owners. At a propitious moment in the negotiations, the 76-year-old González was arrested by Federal Judicial Police on four-year-old tax evasion charges. Although he was released after several months, the settlement reached with the workers while he was in prison was substantially less than he had been seeking.

Carlos Enrique López Barrios, a lawyer defending Tzotzil Indians in Chiapas state, was beaten all over his body on April 27, 1993 by three unidentified men who seized the lawyer's appointment book and identification cards. The beating occurred while the defense group, Abogados y Asesores Asociados, of which López Barrios is a member, defending Tzotzil Indians from San Isidro el Ocotal community who were accused of the recent killing of two soldiers.

Journalists are also subject to pressures to conform. Miguel Angel Granados Chapa, one of Mexico's most respected political columnists, was required by the independent radio station for which he served as a commentator to submit for prior approval the names of guests he intended to feature on his program. The demand occurred just after Granados Chapa hosted opposition presidential candidate Cuauhtémoc Cárdenas. The radio station's license was under review by government authorities at the time. Granados Chapa quit rather than comply with the censorship demand. After Granados Chapa went public with his accusations, President Salinas personally called him to say the government had nothing to do with his departure and to offer him a program on a government-owned radio station. Manuel Villa, the government official in charge of radio and television licensing was removed from his post and named to head the newly formed National Institute of Migration.

In response to internal pressure and mounting international publicity about electoral fraud in the NAFTA negotiation period, the Salinas administration pushed through Congress a series of bills to overhaul election procedures. While these new laws ostensibly address campaign financing, the voter registration process, the number and apportionment of seats for members of Congress, electoral observation, and oversight of the ballot count, they are carefully measured to avoid any genuine threat to the PRI's entrenched monopoly on political power and its role as the government's continued PRI dominance.

One recent measure that appears progressive actually was carefully crafted to remove an opposition candidate from contention in the 1994 presidential election. Article 82 of the Mexican constitution was amended to allow persons born in Mexico whose parents were born outside the country to run for president. But that provision will not go into effect until the year 2000, thereby blocking the candidacy of Vicente Fox Quesada, a popular and charismatic PAN leader who the government considers a worrisome challenger.

Appendix: Recommendations Section from Americas Watch May 1993 Report, "Frontier Injustice: Human Rights Abuses Along the U.S. Border with Mexico Persist Amid Climate of Impunity"

## V. RECOMMENDATIONS

It is disappointing to note that virtually all of the recommendations made by Americas Watch in its May 1992 report must be repeated now—nearly a full year after they were first written—because there has been no discernible change in INS policy. As we noted last year, many of the problems documented by Americas Watch can be remedied by policy and attitudinal changes on the part of the INS and Customs Service and their agents.<sup>139</sup> Others require regulatory and statutory changes. In particular, the reform of disciplinary review mechanisms for allegations of human rights violations committed by both services requires federal statutory change, if those mechanisms are to be fully effective.

Americas Watch calls upon the Clinton administration to apply international human rights standards here in the United States by appointing an INS Commissioner who is committed to curtailing abuses and demanding accountability for culpable agents. Similarly, the Customs Commissioner should take steps to guarantee that the basic human rights of those with whom Customs agents come into contact are respected and that abusive agents are disciplined appropriately.

The changes suggested below are imperative if the rights of undocumented immigrants, and those of documented residents and U.S. citizens, are to be respected in the border region. In particular, Americas Watch calls upon the INS, the Customs Service and the U.S. government to implement immediately the following recommendations:

I. All individuals within the United States, regardless of their immigration status, are entitled to respect for their basic human rights. The INS needs to redirect its mission to emphasize the promotion and protection of human rights in the fulfillment of its responsibility to enforce U.S. immigration laws. Similarly, the Customs Service must respect the human rights of those with whom it interacts. Both Services must make clear to their personnel that failure to respect the legally protected human rights of any person will be punished.

II. INS and Customs agents should, as far as possible, apply non-violent means before resorting to the use of force or firearms. Whenever the lawful use of force or firearms is unavoidable, INS and Customs agents should:

- A. Employ force only as necessary to attain a legitimate objective and only in proportion to the importance of that objective.
- B. Minimize damage and injury, and respect and preserve human life.

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<sup>139</sup> The report which we issued last year only considered abuses and recommendations for change by the INS. The report also considers recommended changes which should be adopted by the Customs Service.



- C. Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.
  - D. Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment.
- III. Firearms should be reserved only for the protection of agents or third persons from imminent threat of death.
- A. Agents should not brandish their firearms in the course of everyday enforcement.
  - B. Agents should never shoot a fleeing suspect unless absolutely necessary to preserve the lives of others.
  - C. Agents should never fire warning shots.
  - D. Weapons inspections should be thorough and consistent so that immigration law enforcement agencies are not dependent solely upon agents' reports regarding firearms incidents.
  - E. Agents should be strictly prohibited from carrying non-issue weapons when they are on duty. Lax weapons policies hinder weapons testing and encourage unauthorized and abusive firearms use by agents.
- IV. Nonlethal devices (i.e., stun guns, gas guns, nonlethal projectiles, and vehicle stopping devices) should be used in preference to firearms and other lethal weapons.
- V. All equipment carried by INS and Customs agents should be used only for its intended purposes (e.g. flashlights and hand held radios should not be used as weapons).
  - VI. When injury or death is caused by the use of force or firearms, INS and Customs agents should report the incident immediately to their superiors.
  - VII. INS and Customs agents should never use force, threats of force, or arbitrary detention as forms of extrajudicial punishment.
  - VIII. A fully empowered and independent Review Board, outside the INS and Customs Service should be created to investigate all complaints of abuse directed at INS and Customs agents.
    - A. Review Board staff should be experienced in investigating abuses by law enforcement personnel. INS and Customs agents should not be immediately eligible for employment with the Review Board.
    - B. All shootings and instances of serious abuse should be reported immediately to the Review Board. The failure to report an incident to the Review Board should be a sanctionable offense.
    - C. The Review Board should develop a system whereby the records of agents who have been the subject of repeated complaints are reviewed by the appropriate authorities.
    - D. The Review Board should make public the names of all agents alleged to have been involved in cases of serious abuse, unless there is specific evidence that doing so would jeopardize the safety of the agents involved or hinder the investigation. If these special circumstances are temporary, the names should be released when the circumstances no longer exist.
    - E. Agents involved in shootings or other incidents that result in death or serious injury should be assigned to restrictive duty or suspended until the circumstances are clarified and the Review

Board completes its investigation; no agent involved in such an incident should be reinstated without first receiving stress counseling.

F. All cases in which the Review Board finds that an agent committed an offense which is prosecutable should be turned over to the relevant authorities for prosecution. Such referral, however, should not serve as an excuse for inaction by the Review Board. Neither should the decision by a prosecutorial agency not to prosecute a case be treated by the Review Board as an exoneration of the agent or agents involved.

G. All cases in which the Review Board finds that an agent violated INS or Customs regulations should be forwarded to appropriate supervisory personnel with a recommendation for sanctions. Review Board recommendations should be implemented by supervisory personnel; where these personnel refuse to implement a Review Board recommendation, they should be required to justify promptly and in writing their reasons for failing to do so.

IX. Procedures should be established to enable undocumented immigrants to file complaints against INS and Customs agents without fear of reprisal.

A. The public should be effectively informed of its right to file complaints against INS and Customs abuse. All INS and Customs personnel should be fully familiar with the complaint process. Easy-to-understand complaint forms should be supplied and an explanation of the complaint procedures, in the languages of the immigrant community, should be displayed prominently in all INS and Customs offices. A 24-hour, toll free phone number, staffed by persons who speak the languages of the immigrant community, should be established for the purpose of receiving complaints against agents of the INS and the Customs Service.

B. All persons who file complaints should be informed when their complaints are received, given periodic status reports, and provided access to an appeal process.

C. The appeal process should be public and transparent, except in unusual cases in which specific evidence is presented as to why the Review Board should do otherwise.

D. Under no circumstances should reprisals be taken against undocumented immigrants who file complaints, nor against agents of the INS and Customs Service who denounce violations to the Review Board; cases in which reprisals are alleged should be referred to the Review Board and treated like other complaints of abuse.

E. No information obtained regarding the immigration status of witnesses to alleged violations committed by INS and Customs agents which is obtained in connection with investigations into such abuses, should be used against such witnesses in immigration proceedings.

X. All INS and Customs agents who regularly come into contact with the public should be in uniform and clearly identifiable by name. All INS and Customs vehicles should bear large, fluorescent, reflective two or three-digit identification numbers.

XI. The INS and Customs services should eliminate all strip and body cavity searches unless there is probable cause to suspect that a person possesses contraband. Strip and body cavity searches should never be used to intimidate, harass, or humiliate the person being searched. Whenever possible, searches should be conducted by third parties, rather than the arresting agent.

XII. All INS and Customs agents should be required to undergo human rights training to increase their understanding of the basic rights of the individuals with whom they are in contact daily.

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## PREPARED STATEMENT

PHARIS J. HARVEY  
EXECUTIVE DIRECTOR

INTERNATIONAL LABOR RIGHTS EDUCATION AND RESEARCH FUND

before the

HOUSE FOREIGN AFFAIRS COMMITTEE  
SUBCOMMITTEES ON INTERNATIONAL SECURITY, INTERNATIONAL  
ORGANIZATION AND HUMAN RIGHTS  
AND ON WESTERN HEMISPHERE AFFAIRS

OCTOBER 26, 1993

"LABOR RIGHTS IN MEXICO"

Thank you, Mr. Chairman for the opportunity to address this committee on the important subject of freedom of association, health and safety and child labor in Mexico. My name is Pharis Harvey. I am the Executive Director of the International Labor Rights Education and Research Fund. This organization was founded in 1986 by human rights, religious, labor and other organizations and individuals who had developed and supported legislation to make trade concessions in the U.S. market contingent on respect for the rights of workers. Under the leadership of former Labor Secretary Ray Marshall, ILRERF has become a premier voice in the U.S. in defense of the human rights of workers around the world, and of labor rights conditionality in trade law and negotiations.

As one of the conveners of the **Alliance for Responsible Trade**, a broad-based network of national organizations representing environmental, labor, human rights, religious, agriculture and minority concerns working to foster a more socially and environmentally responsible trade regime in North America, we have developed close and productive ties to similar coalitions of organizations in Mexico and Canada. That regional alliance has worked hard to assure that any trade agreement negotiated among our countries meets the broad developmental needs of all our populations, advances democratic social and political institutions, and protects our common environment from further degradation by unregulated commercial activity.

It is from this background of comparative study of labor rights and intense involvement with popular organizations of the North American region that I want to offer some comments today on the state of freedom of association in Mexico, and the problems of child labor and health and safety violations that may be either exacerbated or lessened by the regional trade regime that is proposed under NAFTA and its side agreement on labor cooperation.

Many of the points I want to make today were contained in greater detail in a petition ILRERF filed June 1, 1991 with the US Trade Representative challenging Mexico's beneficiary status in the Generalized System of Preferences because of the failure of Mexican law and government practice to afford workers internationally-recognized workers' rights. Mexico, in addition to negotiating a free trade agreement, is already the largest recipient in the world of tariff free benefits in the U.S. market under the GSP program, which, unlike NAFTA, requires beneficiary countries to respect worker rights, including the rights of free association and collective bargaining.

In our petition, we pointed to a panoply of legal, administrative, political and judicial restraints against the exercise of freedom of association in Mexico, and to the consequences -- sterile unions without power to represent workers, low wages, child labor, high accident and industrial death rates.

It is, however, unfortunate that on October 5 the Administration refused to accept this petition for review, not, we would suspect, because of any intrinsic lack of merit, but because it complicates relations with Mexico at a time when the administration has a great desire for NAFTA to be consummated.

As of today, three weeks later, the Administration has failed to provide any explanation for its decision, but its demonstrated lack of willingness even to examine Mexico's labor practices under established law does not provide much room for confidence that the proposed labor side agreement will be an instrument for protecting the existing legal rights of workers in Mexico. In fact, because of the considerably more restricted scope of labor issues that can be subject to complaints and remedies under the NAFTA side agreement than under the GSP, the net effect of this Administration action is to exempt Mexico from requirements that exist for every other developing nation in order to get concessional access to the U.S. market.

We would urge the Members of this Committee to protest to the Administration regarding the integrity of the GSP Review Process and to insist that the labor side agreement be renegotiated to include within its purview procedures for remediation of all the aspects of labor rights that are part of current GSP law.

### Mexico. "The Perfect Dictatorship"

Contrary to some of the impressions created in the heat of the debate over NAFTA,

Mexico is not a primitive, undeveloped Third World country where raw repression substitutes for political institutions and where raw exploitation characterizes all economic activity. Quite the contrary. Mexico is a modern, fully textured and multi-layered society with a rich history, a complex multi-cultural tradition and a fully-developed legal and political structure. It has also, however, been in the grip for the last sixty four years of a single party government, which has ruled since 1929 by means of an interlocking set of social and political institutions that make Mexico, in the words of the renowned Peruvian writer, Mario Vargas Llosa, a "perfect dictatorship."

Now is Mexico a poor country. Despite the fact that 59 percent of its population lives below the poverty line, Mexico has the fourth largest number of billionaires in the world, after the U.S., Germany and Japan.<sup>1</sup> Furthermore, the country has great natural resources, having one of the largest oil fields, the largest copper mine and the highest level of biodiversity in the western hemisphere, among other resources.

So when we speak of Mexico, we are not speaking of an undeveloped economy or political system in need of entelage from a more advanced and presumably more enlightened trade partner on its northern border. We are talking about well-entrenched social and political institutions that function for the most part as they are intended, to concentrate power in the hands of a single-party state and its closest allies, the handful of Mexican billionaires.

It was not always so. The 1910-20 Revolution was an immense victory for the ordinary people of Mexico. In the early post-revolutionary days, trade unions and peasant organizations became a powerful force in Mexico. These two social groups were incorporated into the ruling party as its labor and peasant wings, respectively, and provided legitimacy to the government by mobilizing mass support for it.

However, over the years, the equation reversed, and the proximity to power of the labor union leadership became a source of weakness rather than strength. Having accepted political favors from the ruling party, labor's putative leaders became increasingly dependent on the government and its directives, increasingly the instrument of government policy toward workers rather than the voice of workers toward government and management.

These reasons for this metamorphosis are contained both in Mexico's labor laws and in the changing structure of political and economic power. Since 1982, Mexico, in order to cope with its massive debt crisis, has moved decisively away from an autarchic self-reliant economy with a strong public sector in which labor thrived, toward privatization, deregulation and open borders. A handful of cronies of the president have purchased the state enterprises at bargain-basement rates, providing sufficient budget surpluses to bring inflation under control for the moment, and firing hundreds of thousands of unionized workers. New policies of openness to foreign investment have also brought about a new flood of speculative

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<sup>1</sup>Forbes Magazine cited by *El Financiero*, June 21, 1993

foreign investment that provides a temporary cushion for the country's finances. Constitutional changes have undermined peasant organizations, by destroying the communal land system, and "anti-corruption campaigns" have destroyed the leadership of any unions which stood in the way of these changes.

Accompanying and enabling these changes has been a shift in the political base of the ruling Party of Institutionalized Revolution (PRI) away from the public sector industries and social security apparatus, labor and peasant mass movements to a reliance upon the newly-enriched capitalists of private industry, the financial barons and a new technocratic elite. The PRI-related labor unions, admittedly with massively corrupt leadership, have become an albatross around the ruling party's neck, and are therefore being shed of any real power. As dependencies, they have become even more the craven instruments of state policy.

### Limitations on Freedom of Association

Mexico's labor laws, often in complicated ways, have facilitated this transformation.

Mexico has one of the most advanced systems of labor law in the world. Enshrined in Article 123 of the Constitution are a broad array of legal protections for workers, including the right to organize labor unions, an implied right to bargain collective contracts, and the right to strike. Art. 123 also created certain minimum labor standards such as a minimum wage, overtime pay, the eight-hour day, and mandated profit-sharing between management and employees. It protected women and children workers, restricted night work, banned pay in kind and the obligation to purchase goods or services in a specified establishment, and established minimum health and safety standards.

However, Art. 123 also established the tripartite Boards of Conciliation and Arbitration, made up of equal numbers of employers and labor union representatives and one government member to break a tie. On paper this appeared a fair structure, but since the government was able to influence and control the naming of all the Board members, the boards simply extended government power one step further. These Boards were later determined to have the power to function also as labor courts, which removed labor issues from the jurisdiction of an independent judiciary, except at an appellate level. That power includes the determination of which unions could represent workers in bargaining, whether elected union officials were acceptable to the government, whether strikes were legal, and the power to impose arbitrational settlements.

In 1931 the Federal Labor Law (FLL) was enacted, which gave form to, and began the process of restricting, these rights. In 1970, the FLL was further amended. Most amendments have taken away the rights enumerated in the Constitution, or constricted them with administrative procedure, that undermined their intent.

To summarize briefly the major legal restrictions on trade union rights:

1. Unions are required to have government approval in order to function legally, or to represent workers in collective bargaining negotiations. This requirement has been converted over the years from a simple matter of providing basic information into a question of meeting arbitrarily set requirements, which non-government related unions are seldom if ever able to meet. During the 1980s, efforts to seek recognition of new unions virtually dried up, as a result of the complete failure of independent unions in the 1970s to be recognized. Only ten applications were even submitted to the authorities, and of these, only one union was recognized, which was the highly publicized garment workers union formed by victims of the 1985 earthquake in Mexico City.

2. Unions must be re-certified following any changes of leadership. This rule, which originally consisted only of a reporting requirement following leadership changes, has been converted into a requirement that the government approve changes of union leadership and re-certify the union's existence and legality. When this is coupled with a requirement that unions change leadership every two or three years, ostensibly to preserve union democracy, the opportunity for government intervention in union affairs is immense and frequent. Should the government authorities choose not to recognize newly-elected leadership, or delay the recognition over technical details, as has often happened in the case of the election of leadership that is not part of the party apparatus, the registration of a union is suspended. This then gives the company an opportunity reason to fire the elected union leadership with impunity.

While there are many examples of the abuses of this reporting system, the 1990 conflict at Tonnel Rubber Company is one of the more dramatic. In that case, 950 of 1200 workers petitioned the Board of Conciliation and Arbitration to allow an election of new officers to change the affiliation of the union from CTM to another federation, CROC. While the Board delayed calling the election, some 650 workers were fired, and the CTM was allowed to bring hundreds of armed men into the factory to intimidate the workers. A full accounting of this case is included as an appendix. (Appendix I)

3. Public sector workers are required, by law, to belong to a single union, the National Union of Workers in the Service of the State (FSTSE). The ILO Committee of Experts has repeatedly ruled this to be a violation of freedom of association, most recently in 1991, but Mexico has refused to revise its law.

4. In the universities, on the other hand, administrative and service workers are forbidden by law to belong to the same union as teachers. This, too has been strongly criticized by the ILO as an unwarranted intrusion by law in labor union autonomy. In this case, the university teachers union is the largest independent union in Mexico, and the government seeks through this law to restrict it from growing to include other workers.

5. Mexico's closed shop system not only allows contracts to stipulate that all workers in a workplace belong to the union with the collective agreement, but provides that if the union expels members, they can be automatically fired. This law makes it

possible for corrupt unions easily to squelch internal reform movements, or to rid the workplace of workers seeking to organize alternative unions or change union affiliation. In September, 1993, the labor conflict at the Plásticos factory in Tijuana in which some 40 observers from the U.S. were arrested by Mexican police (Appendix II) was focused on the effort by workers to seek representation by a different union, for which they were fired after being expelled by the CTM-affiliated union.

6. While workers are legally free to join or form any union they desire, only one union can represent workers in a collective agreement. Reasonable on its face, this law has frequently been used to justify a "recount" of union membership to determine which union gets the contract, under conditions of intense harassment from company- and union-sponsored squads of gangsters. It also is used to destroy any attempts at forming unions that are not state party-dominated. Again, the Tornel Rubber Company incident illustrates this practice, as does the Ford Motor Co. union conflict at its Cuautlan plant from 1988 to 1993.

7. The Federal Labor Law makes it possible for employers to fire union organizers easily, by paying a relatively low indemnification of three months wages plus "damages for the inconvenience caused by the firing." La Botz notes that "employers frequently remove union organizers in this manner, or, with the collusion of the union, they remove dissidents from the workplace."<sup>2</sup>

8. The right to strike, while guaranteed in the constitution, is subject to a determination by the Board of Conciliation and Arbitration, either at a state or federal level that the strike is legal, or "existente." To be "existente" a strike must receive a majority vote, and be for one or more of a list of legitimate reasons. Over the years, this requirement has become increasingly burdensome, so that the vast majority of called strikes are declared "inexistente" before they even begin. Between 1982 and 1988, for example, only 23 percent of some 72,000 called strikes ever occurred. While a number of these strikes were settled during the waiting period, most were declared "inexistente."

9. Criminal, tax and anti-subversion laws are routinely used to arrest labor organizers or union lawyers during negotiations. In most cases, these charges are not upheld by the courts, but as we have demonstrated in our GSP petition, the effect is to make it impossible for the unions to function during critical times. The most famous recent example of this was the arrest of Agapito Gonzalez, regional leader of the only unionized Maquiladora factories in Matamoros in January 1992 on three-year-old charges of tax evasion. Despite the fact that Gonzalez was able to demonstrate that he had paid the taxes, he was held under house arrest in a hospital in Mexico City for some seven months before being released.

In another case documented by Americas Watch, two labor lawyers for oil workers

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<sup>2</sup>Massachusetts, p. 47



who protested lay-offs were arrested on October 21, 1992. The lawyers, Guadalupe Maria Sandoval and Julio Guillen Solis, were jailed on charges of fraud, use of false documents and perjury that dated from 1989 but which were not pressed against them until three years later, at precisely the time when workers staged a labor protest against the national oil monopoly, Petroleos Mexicanos. The lawyers were released after being detained one month.<sup>3</sup>

Other instances of this practice are too numerous to mention, but we would call the Members attention to the listing of six other incidents in the last year of this type of harassment against labor union lawyers in our GSP petition.<sup>4</sup> (Appendix III)

There are other limitations and distortions of the rights of association in Mexican labor law and practice, including endemic violence practiced or condoned by officials against trade unionists, but these examples will illustrate the problem: a government intent on limiting the rights of workers, in collusion with its own party-controlled labor central and a compliant bureaucracy has the ability to thwart not only free labor activity in the workplace but virtually any efforts at internal reform of the trade union movement.

### Health and Safety

One major result of this government-official union collusion on the everyday lives of Mexican workers is the deterioration of health and safety in the workplace. Mexico currently has the third highest per-capita industrial accident rate in the world, according to the CTM.<sup>5</sup> In 1992 there were 624,621 industrial accidents recorded by the government. This is a 24 percent increase from 1989, when according to the ILO's Yearbook of Labor Statistics, Mexico experienced 503,897 industrial accidents, and occurred during a period of significant plant modernization.

Furthermore, this statistic is quite likely to be seriously understated. Mexico's health and safety enforcement depends, as its primary incentive for compliance, on escalating insurance costs for firms with increasing incidence of accidents or fatalities. Under these circumstances, an offending company can more economically pay off the injured worker without reporting to the government. There are no fines for first offenses against health and safety regulations, and maximum fines for repeated offenses, approximately \$1,500 (U.S.), are so slight as to be outweighed in most instances by the cost of safety equipment or adequate internal monitoring of dangerous equipment or substances. Mexican regulations also appear to require reporting of injury and illness only when lost workdays are involved,

<sup>3</sup>Juan Mendez, Executive Director, Americas Watch. Testimony before the House Committee on Small Business, June 29, 1993, p. 10.

<sup>4</sup>ILRERF Petition for Review of the GSP Status of Mexico under GSP Worker Rights Provisions, June 1, 1993, pp. 10 - 18.

<sup>5</sup>*La Jornada*, June 10, 1993, p. 13.

which results in failure to report many repeated trauma disorders and closely related strain and sprain injuries.

Mexico's standards for exposure to toxic substances are in most instances considerably more lax than those of the United States, as the following list indicates:

| Substance          | United States         | Mexico                 |
|--------------------|-----------------------|------------------------|
| arsenic            | 10 ug/M <sup>3</sup>  | 200 ug/M <sup>3</sup>  |
| asbestos           | 0.2 fibers/ml         | 2 fibers/ml            |
| benzene            | 1 ppm                 | 10 ppm                 |
| cadmium            | 5 ug/M <sup>3</sup>   | 50 ug/M <sup>3</sup>   |
| chromic acid       | 100 ug/M <sup>3</sup> | 2500 ug/M <sup>3</sup> |
| formaldehyde       | 0.75 ppm              | 2 ppm                  |
| lead               | 50 ug/M <sup>3</sup>  | 150 ug/M <sup>3</sup>  |
| vinyl chloride     | 1 ppm                 | 10 ppm                 |
| methylene chloride | 500 ppm *             | 50 ppm                 |
| styrene            | 100 ppm               | 50 ppm                 |
| zinc chloride      | 100 ug/M <sup>3</sup> | 50 ug/M <sup>3</sup>   |

Source: U.S. Health and Safety Department, "Comparison of Mexican and United States Occupational Safety and Health Legislation, Regulation and Enforcement," September, 1993.

\*OSHA is currently engaged in rule making for methylene chloride, considering lowering the allowable limit to either 50 ppm or 25 ppm. Hearings have been completed.

In one area of health and safety regulation, Mexico's laws are superior to those in most states of the U.S. Each firm is required by Mexican law to name a "mixed commission", a joint labor/management safety committee. Employee members are selected by the union or the employer where there is no union. In a situation of effective and autonomous unions, this requirement could be an important safeguard for workers' health and safety. However, the testimony of countless workers in the *Maquiladoras* and elsewhere is that such committees do not often function, and in a situation in which the majority of unions are instruments of management influence rather than worker representation, these committees are of little help in preventing or correcting health and safety problems.

In several other areas, such as confined space entry, hazardous waste operations and emergency response, energy lockout, and operation of powered industrial trucks and cranes, Mexican regulations are vague and inadequate, allowing considerable employer discretion in

means of enforcement and interpretation of level of danger.

In summary, Mexico's health and safety legislation and regulation, which are the basis for any NAFTA-related complaints, provide little protection to Mexican workers and massive scope for employer violations.

### Child Labor

Mexico has good laws regulating child labor. Persons under the age of 14 are not allowed to work in any field of endeavor. Minors from age 14 to 16 are allowed to work only upon the presentation of a medical certificate confirming aptitude for work. "There is a minimum age of 16 for work which, on account of its nature or the physical, chemical or biological conditions of the environment in which it is performed or the composition of the raw material used, is liable to affect the life, development and physical and mental health of young persons. Prohibited activities include work with acids, lead, benzene, explosives, electric wire, petroleum, blast furnaces, wild animals, rubber, solvents and work in tanneries, and any activities that may involve exposure to noxious dust and fumes. The minimum age of 16 also applies to the sale of liquor and to employment underground and underwater."<sup>6</sup>

All this notwithstanding, it has been estimated that as many as 12 million children under age 14 in Mexico are working, almost all of them illegally.<sup>7</sup> Since that figure, exceeds the number of children in Mexico between the ages of 10 and 14 — 10,505,900 according to the Mexican census of 1988<sup>8</sup> — it is certainly excessive. Most other estimates range between 5 and 10 million. The ILO reports that approximately 18 percent of Mexican children aged 12 to 14 work.<sup>9</sup> But, whatever the head count, anecdotal evidence available to any visitor to Mexico's cities, rural areas or *maquiladoras* suggests that a large number of children below the legal age of 14 are working, in factories, sweatshops, on the streets and in middle class households, many at great risk to their health and morality, and all at risk to their future as productive citizens. As Dan La Botz said in *Mask of Democracy*:

Child labor, which is the product of generalized poverty, cannot be eliminated by the creation of more adult jobs at below-subsistence wages. Coping with the epidemic of Mexican child labor requires a combination of improved employment opportunities

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<sup>6</sup>ILO, *Conditions of Work Digest, Child Labor: Law and Practice, 1991*, p. 133.

<sup>7</sup>John M. McClintock, "Free Trade Pact raises concerns about exploitation of Mexico's child workers", *The Baltimore Sun*, December 15, 1991.

<sup>8</sup>International Labor Organization, *Yearbook of Labor Statistics, 1989-90*, p. 25.

<sup>9</sup>Cited by U.S. Department of State, *Country Reports on Human Rights Practices, 1992*, February, 1993, p. 450.

and wage levels for adults and enhanced educational opportunities for children, as well as enforcement by an adequate number of government officials. Without establishing wage-management strategies as part of an overall development plan, there is no hope of lessening the evil of child labor. Cheap labor strategies for adults mean even cheaper wage strategies for children, leaving Mexico in a hopeless downward spiral.<sup>10</sup>

## Conclusion

It is frequently argued that Mexico's labor conflicts are merely inter-factional disputes within the trade unions. That interpretation, while accurate in some ways, ignores the reality of the trade union monopoly which is sustained and supported by law and administrative practice in Mexico, so that every effort to challenge it takes on the character of a "factional dispute." Mexico has escaped the criticism of the ILO Freedom of Association Committee for many years because of this complexity. The ILO is rightly hesitant to interfere in the autonomy of genuine workers' organizations and has few instruments to criticize trade union monopolies. Add to this the fact that Mexico's worker representatives at the ILO never bring complaints to the Committee, and that most international labor federations that would be in a position to challenge the Mexican situation are also affiliated with the official unions and consequently hesitant to bring complaints that are not endorsed by their national affiliate, and you have one more example of why Vargas Llosa called Mexico "the perfect dictatorship." Almost all bases are covered.

These problems and others we could enumerate given the time demonstrate why a free trade agreement with Mexico with a supplementary agreement on labor rights which depends only on the willingness and ability of each government to enforce its own laws, is unworkable. The Clinton Administration's reluctance even to examine problems of violations of freedom of association in Mexico in the context of GSP certainly adds to the skepticism of many regarding the workability of the side agreements under NAFTA.

One of the myths abroad in the land is that NAFTA of itself will eventually push Mexico toward a more open political regime. Trade liberalization does not amount to political liberalization, nor is there serious evidence to suggest that it necessarily leads to it. The evidence of the period since 1986 in Mexico should give pause to anyone suggesting such an automatic linkage. One-man rule has reached new heights under the "liberalizing" regime of President Carlos Salinas de Gortari.

Thank you for holding this hearing. The rights of the workers of Mexico will be important for the people of the United States whatever happens to NAFTA. It is our fervent hope that NAFTA will be defeated, and that in its place will arise a strong will to develop a region wide trade regime that is supportive of democracy and affirms the rights of workers in all our countries.

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<sup>10</sup> *Masks of Democracy: Labor Suppression in Mexico Today*, an ILRERF Book, South End Press, 1992, p. 49.

## The Tornel Rubber Company Strike

In 1989, workers of the Cia. Juliana Tornel, S.A. de C.V. (Tornel Rubber Company) decided they wanted to change their union affiliation. At the time, Tornel was the third largest tire company in Mexico, employing 1,700 workers, of whom 1,200 were union members. These employees worked at plants located in the San Antonio industrial development in Azcapotzalco, and in Tultitlán, in the state of Mexico. They produced tires for bicycles, motorcycles, automobiles, and various other kinds of vehicles.

Tornel workers were concerned about serious health and safety problems in the plant and declining real wages.<sup>37</sup> At the time, the minimum weekly wage was 131,000 pesos (about 45 dollars), with some skilled workers making 145,000 pesos weekly (about 50 dollars). Wages at Tornel were lower than wages at other rubber plants for workers performing the same jobs.<sup>38</sup> The health and safety problems posed were dust in the air, inadequate ventilation, poor masks, injuries resulting in lost fingers or hands, heavy weights, and back injuries.<sup>39</sup>

The CTM had run the union at Tornel for many years. Many workers viewed the union as a *charro* union and some said that it was closer to management than to the workers.<sup>40</sup> In the past, there had been at least one attempt by a local union leader to form an independent union; he was immediately fired.<sup>41</sup> In the late 1980s, the CTM perpetually refused to account for the use of union funds, refused to show workers their union contract, and made changes in the executive board without consulting the workers. In 1989 when the union officials refused to hold a meeting as the workers requested, the workers organized their own union meeting, in which they voted out of office the long-time local union boss Rubén Díaz Reynoso and decided to form an independent union. Some 950 of the plant's 1,200 workers signed the petition for an independent union and the petition was filed with the Federal Board of Conciliation and Arbitration.<sup>42</sup> When the Federal Board refused to allow the workers to form an independent union, they decided to leave the CTM's rubber workers division headed by Sergio Pérez Tovar and sought affiliation with the revolutionary Confederation of Workers and Peasants (CRCC) rubber workers division headed by Salvador Martínez Castrillo.<sup>43</sup>

The workers took their demand for an election by representation to the Federal Board of Conciliation and Arbitration, which would organize and mediate the vote to switch affiliations from the CTM to CRCC. On five occasions, the vote was postponed. A year later, the union affiliation election still had not taken place. Meanwhile, scores of workers active in the movement were fired by Tornel management.

On May 3, 1990, five of the Tornel workers were kidnapped at gunpoint, including the movement's principal leader, Rogelio Hernández Medina. Also kidnapped were Pedro Navarro Pérez, another leader of the movement, and three other workers, Félix Guerrero, Santiago Salazar, and Victor Navarro.<sup>44</sup> After being threatened and roughed up, the workers were released. The kidnapping was reported to the appropriate authority, the Attorney General of the Federal District. In mid-June 1990, another kidnapping at gunpoint took place. This time, the wife of one of the workers was taken, threatened, roughed up, and then released. The workers made a formal protest before the Mexican government's newly formed National Commission of Human Rights headed by Jorge Carpizo McGregor. In addition to the kidnapping, the rubber workers complained that Dionisio Noriega Apuricio, general director of the Demetrio Vallejo Center for Worker Information and Orientation, had received anonymous threats because he was a consultant to the Tornel workers. They also reported that 25 Tornel workers had been fired.<sup>45</sup>

On August 4, 1990, the vote on union affiliation was finally scheduled. However, when the Tornel workers showed up to vote, they were attacked and beaten by a group of at least 200 men wearing shirts with the CTM logo. Some workers estimated the goon squad to number between 700 and 800.<sup>46</sup> The CTM members had arrived with an escort from the Tultitlán police, and Sergio Pérez Tovar, the head of the CTM's rubber workers division, was seen with Tultitlán Mayor Antonio Hernández, allegedly carrying a pistol. Newspapers reported that CTM thugs appeared to be drugged or intoxicated and were seen drinking alcoholic beverages. Many of them were believed to have come from the Good Year Oxo and the Chaparritas plants, which were organized by the CTM and under the direct control of Pérez Tovar. Nine workers from both sides were injured, some of whom were hospitalized. Two newspaper photographers and a reporter also were beaten by the CTM goons, Martín Salas Sabana of *Cinco Días*, and Francisco Milla and Judith Calkerton of *La Jornada*. As a result of the riot, the union election vote was suspended. The CTM union members had claimed that they were attacked by CRCC supporters.

Changes were filed by Tornel workers and various reporters against Sergio Pérez Tovar of the CTM, Tultitlán Mayor Antonio Hernández, and the 1991 congressman for Tultepec, Gonzalo Oyarvide, for organizing the beatings. Several workers reported that Wallace de la Mancha, the former leader of the CTM's goon brigades, was among the group that carried out the beatings. In addition to filing charges against their attackers with the Attorney General of the Federal District, workers also took their complaint to the Mexican government's National Commission of Human Rights and demanded that the Board of Conciliation and Arbitration set a new date for a union affiliation election.<sup>47</sup>

22, 1990 as the date a representation election would take place at five locations in the Tornel Rubber Company. The Tornel workers feared that the Tornel company and the CTM would turn out geons and seals to vote, and that the next union election could turn into another riot.<sup>57</sup> Consequently, the Tornel workers decided not to participate in the Federal Board of Conciliation and Arbitration's representation election. As a result, the CTM won the election, with 591 votes for the CTM and 15 votes for the CIROC. As only 1,200 workers were still employed by the company, about 650 having been fired, this could hardly be called a representative election.<sup>58</sup> Feeling they had nowhere else to go, the workers once again took their complaints to the Mexican government's National Commission of Human Rights.<sup>59</sup>

The loss of the right to a free and fair election at Tornel, while it involved a more important company and a larger number of workers than at most enterprises, epitomizes the "institutional" response to Mexican workers who attempt to exercise their labor rights. The tripartite Boards of Conciliation and Arbitration either do not act expeditiously, or they force the workers to choose among "official" unions affiliated with the ruling PFI party. While the Boards prolong the procedure, putting off dates for hearings and for elections, often on the basis of fabricated violations, employers fire the movement's leaders and activists, and if individual firms fail, they engage in mass firings. "Official" unions play their role as well, using thugs or shock troops to threaten, beat, kidnap, and sometimes kill dissidents.

Finally, after several months of firings and beatings, the labor authorities may hold an election in which union geons and strike breakers are allowed to vote, but from which the long-time workers for the firm are either excluded because they organized to protect their rights or they decline to participate because they fear further violence. In the end, the state, "official" unions, and employers succeed in destroying the movement.

Over and over, this pattern repeats itself. Inertia, it seems, has set in. The government bodies set in motion in the 1930s and 1940s, which were supposed to even though instituted in motion, carrying momentum with a push in the 1960s from promised foreign investment. The slippery slope of repression will not stop until workers are given the right to represent themselves before their employers, the courts, and the state.

It was later reported in the newspapers that the geons were part of a special shock brigade organized by Sergio Pérez Tovar, head of the rubber workers division of the CTM. The geons were known as *Los Cerros* (the hunches) or *Los Tepalos*.<sup>60</sup> Some two weeks later, Sergio Pérez Tovar denied that he had anything to do with the violent attack on the Tornel workers.<sup>61</sup> On August 6, 200 pro-CTM workers went to the CTM offices to shout "Vivamos" to CTM head Fidel Velázquez and to Sergio Pérez Tovar. That same day, Armando Forcel met with the workers to thank them for their support for the company.<sup>62</sup>

On August 7, Tornel hired another five workers, bringing the number of workers who had been fired since the movement began to 160. Meanwhile, groups of CTM geons continued to threaten the Tornel workers, and on August 7, some 300 CTM thugs showed up at the Azcapotzalco plant and threatened the workers on the job.<sup>63</sup> Other workers received insulting or threatening phone calls.<sup>64</sup>

In separate interviews, Armando Tornel, head of the Tornel company, and Fidel Velázquez denied responsibility for the events. Velázquez denied that Sergio Pérez Tovar or Wallace de la Mancha had anything to do with the attack on the Tornel workers. He claimed that, in fact, the CTM had been the victim of the attack.<sup>65</sup>

The company continued to fire workers on a massive scale. On August 10, the company fired 500 workers from the second and third shifts, replacing them with CTM workers from the Good Year Oxo plant and other plants.<sup>66</sup> In response to the fact that the company had fired approximately 650 workers, the workers made a request through the Federal Board of Conciliation and Arbitration for the reinstatement of the workers, and organized an encampment in the plaza of the Board—a traditional form of Mexican protest.<sup>67</sup> The Tornel company, in a letter to the Federal Board of Conciliation and Arbitration, formally refused to reinstate the 650 workers.

Meanwhile, there were new developments regarding the workers' desire to change from the CTM to the CIROC. Two other "official" unions asked to have their names put on the ballot: the Mexican Workers Confederation (COM) and another CTM union. Tornel workers believed that these two unions had some support at the request of the CTM in order to confuse the situation. The Federal Board of Conciliation and Arbitration ruled on August 20, 1990 that the Tornel workers could continue to belong to the CTM rubber workers division controlled by Sergio Pérez Tovar, and that the workers' request for a vote be tabled.<sup>68</sup> In response to this decision, the workers addressed an open letter to President Carlos Salinas de Gortari, asking for his intervention so that "this problem could be resolved with justice."<sup>69</sup>

On November 15, 1990, the Federal Board of Conciliation and Arbitration unexpectedly reversed its decision and let 1,400 inter-

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Finally, after several months of firings and beatings, the labor authorities may hold an election in which union goons and strike breakers are allowed to vote, but from which the long-time workers for the firm are either excluded because they organized to protect their rights or they decline to participate because they fear further violence. In the end, the state, "official" unions, and employers succeed in destroying the movement.

Over and over, this pattern repeats itself. Inertia, it seems, has set in. The government bodies set in motion in the 1930s and 1940s, which were struck down even then, advanced in inertia, gaining momentum with a push in the 1980s from promised foreign investment. The slippery slope of repression will not stop until workers are given the right to represent themselves before their employers, the courts, and the state.

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# LABOR NEWS

## INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

Contact: Jim Conley  
 Pat Sims  
 Phone: (714) 730-4460  
 8 am through  
 12 noon (PDT)  
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### FOR IMMEDIATE RELEASE

#### MEXICAN AUTHORITIES DETAIN TRADE UNIONISTS

Manheim, California, September 22, 1993 -- Mexican immigration authorities detained, for more than three hours, 38 Americans and Canadian citizens who had come to Tijuana to study the effects that a NAFTA agreement would have on their jobs.

One member of the delegation from the International Association of Machinists and Aerospace Workers (IAM) is a Maryland state legislator and chair of the Maryland General Assembly's Black Caucus.

IAM President George J. Kourpias strongly objected to their treatment by the Mexican government and demanded an apology.

"This flagrant attempt by Mexican officials to harass visitors who clearly were not in violation of any laws, is an outrageous act against common decency," he said. "Clearly these modern day international robber barons are frightened of what visitors will see."

Mexican federal government officials who identified



themselves as being immigration authorities told the delegation, who were seated on a bus outside of a maquiladora plant, that they were being detained.

Pat Zisks, special assistant to IAM President Kourpias and a participant in the maquiladora tour, reports that the bus driver was ordered to drive to an area near the border. Repeated attempts to learn why the group was being detained were rebuffed. Mexican authorities also refused to allow phone calls to the American consul in Tijuana. For much of the time the delegation was forbidden to leave the bus and treated as criminals.

Mexican authorities boarded the bus and demanded that each person show identification, including addresses and ages.

The driver had obtained his Mexican permit upon entering the country. After nearly three hours, the visitors were told variously that they were violating Mexican law by not notifying border officials that they planned to visit a maquiladora area. They were told later that the violation was "discussing internal working conditions with Mexican workers." Still later they were told that what they were accused of was not illegal, but "irregular."

The delegation was part of an IAM group meeting in Anaheim, and were dispatched to Tijuana on a fact-finding mission to determine the conditions workers are forced to endure in the maquiladora programs.

Maquiladora corporations owned by U.S. and other multinationals operate along the border in the same way that such

plant conglomerates will operate throughout Mexico if NAFTA is approved.

The immigration agents admitted they held the IAN American and Canadian citizens at the request of the owners of maquiladora factories.

The 38 visitors included John Jefferies, a member of the Maryland House of Delegates.

Visitors found that workers employed by the U.S. multinationals worked for less than \$7 per day and lived in abject poverty in slums polluted by the surrounding high-tech plants.

(Excerpt from ILREIRI Petition regarding Mexico's Labor Rights Practices, submitted to the U.S. Trade Representative June 1, 1993)

#### V. Official Threats and violence against organized workers

The pattern of government intimidation of unions has been to put pressure on the leadership of the unions to favor an alignment with the government's policies. If this does not work, then the next step is to block the possibility of a strike. If the workers go on strike anyway, the next step is to declare it illegal; if this still does not stop them, then the company is liquidated and the workers are fired. This pattern has been observed in many cases: the National Institute of Nuclear Energy, Aeromexico, Tepepan, Cananea Mining Co., Maquiladora workers, etc., which are documented in La Botz' study (Appendix VI).

The recent policy of massive layoffs, largely due to business streamlining and PRIVATIZATION, has elicited an increased level of social unrest among workers. A wide array of workers has mobilized to protest these layoffs. The government has strenuously tried to block these mobilizations, using different means of repression against the workers. Recent examples abound:

(a) On the 23rd of May, 1992, in the State of Tabasco, dozens of Pemex's ex-workers including five women were beaten and wounded in the course of a violent suppression of a demonstration of the ex-workers by anti-riot public security forces. The workers were demonstrating in demand of the payment of lay-off indemnization which are required by law.

(b) On May 25, 1992, workers of Omnibus de Mexico, (Buses of Mexico) were arrested by members of the Mexico City's general prosecutor (PJDF), who seized their belongings and threatened them. This happened right after they held a union meeting to challenge the union leader.

(c) On June 1, 1992, in the State of Veracruz, Juan Meza Garcia and his companion, Ernesto Menis, were forced by police to interrupt a hunger strike in protest of having been fired from their jobs at Pemex. They were forcibly taken to the hospital to be attended.

(d) On August 11, 1992, Raul Pineda, the official mayor (deputy for administration and personnel) of the Ministry of Agrarian Reform, ordered the violent dispersion of a demonstration of 80 workers inside the ministry's buildings.

Another example of the suppression of labor rights is the participation of goon squads in internal elections in the unions. The 1991 Petition by McGaughey et.al. documented this

pattern in connection with the Ford Motor Company and the Tornel Rubber Company.<sup>1</sup> However, these are but a few recent examples of a pattern that is longstanding, and that persists.

Almost three and a half years after a Ford-Cuautitlán worker was assassinated,<sup>2</sup> nobody has yet been arrested despite the fact that the National Commission of Human Rights issued its Recommendation 12/92, which recommended the arrest of one of the main perpetrators of that crime, and a warrant for his arrest was issued.

Other recent examples include:

a) On May 9 1992, an armed group of the CTM, headed by J. Guadalupe Uribe tried to disrupt and prevent the union's *recuento* (a vote within a union to determine whether to change the union's affiliation from CTM to CROM), in the corporation Latinoamericana de Vidrio (Latinamerican of glass), located in Naucalpan, State of Mexico. Guadalupe Uribe was one of the men who participated in the CTM armed disruption of a worker strike at the Ford Cuautitlán plant on January 8, 1991.

b) On May 12 1992, an armed group attacked 1,500 workers of Altos Hornos de Mexico, S.A. (ALHMSA), who were holding an assembly to replace the leader of the union. 100 workers were wounded, 15 of them de gravely.

c) On July 30, 1992, approximately 100 workers of Pemex in Veracruz were attacked by the Security Guards of the company, with beating and gunshots while demonstrating in the headquarter of the 11th section of the union. They were asking for the payment of benefits that had been withheld.

d) On August 5, 1992, workers of the Ministry of Agriculture and Aquatic Resources, which were affiliated to sections 1 and 70 of the union, were violently evicted by 60 men while holding a demonstration about wages and benefits increases. Bernardo Medina Austria and Cutberto Cruz were kidnaped and held for five days by unknown men.

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<sup>1</sup>In the G3P Committee's Response to the 1991 Petition (at 8), it is stated that: "Petitioners claim that the violence prevented dissidents from voting in the election that the CTM eventually won. They do not support this claim with evidence." For a listing of the evidence of this violence and its source, cf. La Bata, *Mask of Democracy: Labor Suppression in Mexico Today*, pp. 114-147, which is appended to this Petition as Appendix 1. Similar documentation to demonstrate a pattern of government and CTM-instigated violence in the cases of the labor conflicts at Pemex Oil Co. (1989), Cananea Mines (1989), Modelo Brewery (1990), and Ford Motor Company (1991) is included in this appendix.

<sup>2</sup>For details of this incident, which are not challenged, see the 1991 petition.

## VI. Repression of labor lawyers and labor leaders.

(a) **The arrest during labor-management negotiations in January, 1992 of Agapito Gonzalez Cavazos, head of the Matamoros regional CTM union, on three-year-old charges of tax fraud, is well known. The Country Report indicates that "his supporters charged harassment. Mexican government officials denied this." (1992 Country Report at 450) Other interpreters have been somewhat more voluble and detailed.**

Jerome Levinson, former general counsel of the Inter-American Development Bank, writes of this incident:

"In January 1992, Agapito Gonzalez, head of the Day Laborers' and Industrial Workers Union in Matamoros ... aggressively tried to negotiate higher wages than the official guidelines sanctioned by the government. Gonzalez 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 Gonzalez charged he was being intimidated by agents who questioned him on tax evasion charges, despite the fact he claimed to have evidence of having paid his taxes. Gonzalez 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 by the Salinas administration." (*Unrequited Toil* at 10).

(b) **The case of Aquiles Magana, who is the leader of the Union of State, Municipal and Public Employees of the State of Tabasco, in southeastern Mexico. On April 29, 1990, Magana led a demonstration of the workers of the municipality of Villahermosa, to demand payment of a wage rise already authorized by the state government. As the workers marched toward the Governor's Office, Magana was arrested without a warrant and was taken to the headquarters of the State Judiciary Police. He was accused of damaging the city's garbage trucks and of causing injuries to one worker, apparently one of those workers who participated in the protest.**

After a vicious judicial process, Aquiles Magana was condemned to four years and two months imprisonment simply on the grounds that, since he confessed to be the leader of the protesting workers, he was responsible for any possible damage caused by any of the workers. This was in spite the fact that the worker who supposedly was injured by Magana declared that he did not know Magana and that his injuries were caused when he accidentally fell. The identity of those persons who supposedly damaged the trucks feloniously for which Magana was held responsible was never established, or even investigated. The judge refused to allow defense counsel to make an inspection of the allegedly damaged truck, claiming that such an inspection had already been made by the public prosecutor, who had "proved the extent of the damage by his inspection." The prosecutor said that while he could see the damage to several trucks, when Aquiles Magana asked to participate in an inspection, the judge said it was irrelevant and denied the request. When Aquiles Magana attempted to

present witnesses to testify that no damage to any trucks took place during the demonstration, the judge refused to allow their testimony on the grounds that they would just try to protect Magana. He was also convicted of causing damages and injuries to a worker's arm. The allegedly injured worker was illiterate and testified in the court that he had been taken to the prosecutor's office and forced to place his fingerprint on a blank sheet of paper. He denied that he had made the statement attributed to him in the court; instead, he testified, his injury had occurred from falling down. Nevertheless, Aquiles Magana was convicted of both charges and sentenced to four years and two months.<sup>3</sup> He was found to be "the intellectual perpetrator of the crimes," even though no investigation ever attempted to locate any person physically responsible for the alleged crime.

There were other irregularities. The inspection report on the allegedly damaged trucks was unsigned. It had no date and no detailed description of the trucks that were damaged. The number of damaged trucks was not indicated. Nor was any attempt made to prove the ownership of the supposedly damaged vehicles.

Aquiles Magana, when arrested, was denied bail. After 32 days a Federal judge finally ordered the state government to release him on bail.

(c) "The case of the lawyer for Aquiles Magana, Joel Garcia, who also represented the oil workers' union in its dispute with Pemex in 1991. While the dispute was underway, he was suddenly charged with fraud by a small group of workers on the basis that he had been paid his contracted fee with the union but that the dispute had been settled "politically," rather than as a result of his legal work. Although the government prosecutors were aware there was no legal basis for such charges, they proceeded to carry out a lengthy investigation and to issue a warrant for Garcia's arrest. He was forced into hiding for five months until a Federal judge ruled that the case had no basis. But the state prosecutor reissued his warrant without any alterations, and forced Garcia into hiding for another three months until a Federal tribunal ruled again that the prosecutor's case was without merit.

(d) Estela Rios and Maria Eugenia Meza, lawyers for workers at Siderurgica Lazaro Cardenas, a state-owned company processing metal products, were charged during negotiations with falsifying workers' signatures on the letters requesting them to represent them. They were finally cleared of the charges, but because of the fear of being imprisoned, they spent several months when they could not represent their union adequately. While they were representing about 500 workers they were arrested in Mexico City and held incommunicado for 24 hours.

For lawyers representing workers in disputes with powerful companies or with the state, this type of harassment is all too common in Mexico.

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Source: trial documents, including preliminary prosecution's investigation, case No. 044/990, Tabasco; Tabasco State Court ruling No. 82/990; State Superior Tribunal Case No. 200/991; Federal Amparo 929/991.

(g) **Raul Miron Saldro**, leader of the union of the Tropico Brewery in Oaxaca state, was assassinated on April 30, 1992, by unknown assailants. This assassination occurred during a labor conflict and apparently was conducted under company orders. No investigation has been undertaken and no one has been arrested for the murder.

(h) In Mexico City, the Judicial Police detained **Lilia Mejia** and **Jorge Torres**, leaders of the democratic movement of the workers of the Ministry of Agriculture and Aquatic Resources, in March, 1992. They were detained for two days, after which they were reportedly released without charges being filed.

## ACTIVITY REPORT

| NO | REMTCE STATION I. O. | START TIME      | DURATION | #PAGES | COMMENT                        |
|----|----------------------|-----------------|----------|--------|--------------------------------|
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| 2  | 7504                 | 12:08PM         | 5'32"    | 14     | ERROR CORRECT MODE             |
| 3  | 54022                | 12:18PM         | 0'00"    | 0      | REMOTE WAS BUSY                |
| 4  | 54022                | 12:22PM         | 0'00"    | 0      | REMOTE WAS BUSY                |
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| 14 | 51589                | 3:10PM          | 0'00"    | 0      | OP66/ OK                       |
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| 7  | CC:TT G3             | 10:06PM        | 1'31"    | 2      |                                |
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TESTIMONY OF CARLOS M. SALINAS,  
GOVERNMENT PROGRAM OFFICER FOR LATIN AMERICA AND THE  
CARIBBEAN FOR THE WASHINGTON OFFICE OF AMNESTY INTERNATIONAL  
USA SECTION  
BEFORE THE JOINT SUBCOMMITTEES OF  
INTERNATIONAL SECURITY, INTERNATIONAL ORGANIZATIONS AND  
HUMAN RIGHTS;  
AND WESTERN HEMISPHERE AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES

26 OCTOBER 1993

Amnesty International USA welcomes this opportunity to testify before the joint subcommittees of International Security, International Organizations and Human Rights; and Western Hemisphere Affairs and is grateful for the leadership demonstrated by both Chairmen, Congressmen Lantos and Torricelli, and Ranking Minority Members, Congressmen Bereuter and Smith, in addressing what is a complex topic at a very sensitive political time: the human rights situation in Mexico.

Three months ago, when we testified before Congressman LaFalce's Committee on Small Business, we made it unequivocally clear that Amnesty International has no position whatsoever on the merits of the North American Free Trade Agreement (NAFTA). However, we expressed our disappointment that the issue of human rights in Mexico has not been brought up publicly by either the Clinton or the Salinas de Gortari Administrations in the context of these high level discussions. We have clarified that Amnesty International maintains that whenever two or more governments get together to discuss bilateral or multilateral issues, human rights should be a key point of discussion. In the context of NAFTA, the silence has been deafening.

On 30 September 1993, Deputy Assistant Secretary for the State Department's Bureau of Human Rights and Humanitarian Affairs, Nancy Ely-Raphel, testified before the House Committee on Small Business that there have been discussions about human rights between the US and Mexican governments. As evidence, she pointed to a meeting between the US Ambassador to the UN, Madeline Albright, and the current President of Mexico's National Human Rights Commission, Jorge Madrazo. While we certainly welcome the fact that this meeting took place, we simply cannot substitute said meeting for the level of discussion this topic warrants. Where are the public pronouncements by the Clinton Administration on the current human rights situation in Mexico?

While the Administration has been relatively silent, members of the US Congress have not. Congressman LaFalce has held a series of hearings and seminars on the continuing problem of human rights violations. And even as we speak, there is a "Dear Colleague" letter circulating in the House co-sponsored by Congressmen Engel, Gilman, Ravenel, and LaFalce. The bipartisanship displayed in the co-sponsorship underscores the seriousness of the persisting problems in Mexico and certainly merits praise from the human rights community and support from the U.S. Congress.

Echoing the sentiment expressed in the circulating letter, Amnesty International does not discount the reforms the Mexican Government has undertaken under the Salinas de Gortari Administration. We commend the creation of the National Human Rights Commission and its subsequent institutionalization through constitutional reform. We applaud the reforms to the penal code and we commend the publicly stated commitment from Mexican Government officials at the very highest levels, including President Salinas de Gortari. But verbal statements and paper reforms are simply not enough. The bottom line is the persistence of human rights violations and the persistence of impunity for human rights violators. In our assessment, human rights violations persist in large numbers and impunity for human rights abusers continues to be the norm rather than the exception. Our findings are not only echoed by such distinguished organizations as Human Rights Watch and the Minnesota Advocates for Human Rights; they are also shared by Mexican human rights non-governmental organizations (NGOs), foremost of which would be the National Network of Human Rights Organizations, a coordinating structure comprised of thirty Mexican human rights NGOs, which is currently waging a national campaign against impunity.

This assessment is also shared by the United Nations Committee against Torture, the UN body which oversees adherence to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force in Mexico over six years ago (26 June 1987). The Committee against Torture, in its 17 November 1992 meeting, not only concluded that "an extremely large number of acts of torture of all kinds were perpetrated in Mexico despite the existence of a legal and administrative act designed to prevent and punish them" but also noted that "the judicial police, in particular those officials who were responsible for acts of torture, <seem> to enjoy a high degree of impunity in Mexico."

The most pervasive human rights violations in Mexico are the use of torture by both Federal and State judicial police and attacks against indigenous communities, usually by members of local security forces often in conjunction with local landowners and their lackeys. We are also

concerned that the fate of hundreds of people "disappeared" during the 1970s and early 1980s has yet to be clarified. If investigations have yet to be initiated in most of these cases, there is little hope for the prosecution of those responsible for such heinous acts. Because members of the police and security apparatus enjoy impunity, not just in past "disappearances" but vis-a-vis current violations, there is little hope that this tide of abuse will be stemmed. As the UN Working Group on Enforced or Involuntary Disappearances noted in its 1990 report, "<Our> experience over the past 10 years has confirmed the age-old adage that impunity breeds contempt for the law. Perpetrators of human rights violations... will become all the more brazen when they are not held to account before a court of law."

Mexican violators are not accountable and they are brazen. They beat and kick their victims or they introduce carbonated water with chili powder up the victim's nose. They semi-asphyxiate them by either putting a plastic bag over their heads or submerging their heads under water. They burn them with cigarettes, shock them with electric prods, suspend them for prolonged periods from the wrists, and deprive them of food and/or sleep. We continue to receive reports such as these and most are in the context of the Mexican criminal justice system as these brutal methods are used by judicial police agents to obtain confessions.

These methods however are not limited to police seeking confessions. They have also been used to harass gay-rights activists such as Gerardo Rubén Ortega Zurita and José Cruz Reyes Potenciano who were arrested on 16 June 1992, days after Ortega was interviewed on TV where he criticized the authorities regarding gay issues. They were beaten by the police, beaten by prison inmates, and after a year in jail, they were released in July without explanation or without redress.

These brutal methods are also used by other government agents in repressing indigenous people or evicting them from their lands. This past June 6, more than 1000 members of the state security forces, apparently accompanied by local landowners, raided several Tzeltal Indian villages in the southern state of Chiapas. While they arrested 23 Tzeltal villagers, these members of the security forces beat several men, women, and children; destroyed more than 100 homes; and stole belongings and funds. The 23 detainees, including three elders of 80, 90, and 102 years; and two minors aged 14 and 15, were beaten, electrically shocked and had alcohol forced up their noses. On June 25, the three elders were released for lack of evidence while the two minors were transferred to a juvenile detention center. To Amnesty International's knowledge, the rest are still in jail and are considered prisoners of conscience as defined by the Amnesty mandate. Unfortunately, we have reported the

arbitrary detention and torture of the Tzeltal indigenous communities several times in the past. The latest incident reported by Amnesty occurred on September 17 of this year when, in the context of a land eviction, two Tzeltal Indians were arrested while four were apparently "disappeared." These attacks all the while the UN celebrates its International Year of the World's Indigenous People.

Agents of the Mexican security forces often engage in human rights abuses. Due to the pervasiveness of these practices and because of domestic and international pressures, the Mexican Government has undertaken a series of reforms, some of which reenforce earlier constitutional provisions, others which have created new institutions, and other measures to implement international human rights treaties. Beginning with the 1986 Law to Prevent and Punish Torture through the creation and institutionalization of the National Human Rights Commission and the naming of Jorge Carpizo, the previous President of the Commission, to head the Attorney General's office, it may seem to the casual observer that the Mexican Government is finally confronting the problem of human rights abuses. The question, then, that begs to be asked is whether these reforms are effective. But most indications are that these paper reforms, albeit very well intentioned ones, lack the necessary support by the Mexican government to become truly effective in combatting human rights violations.

As mentioned above, the legal reforms simply reaffirm or expand provisions of the 1917 constitution which contains several articles for human rights protection such as stipulations that no arrest shall be made without a warrant issued by a competent judicial authority except when caught in the act of committing a crime (*flagrante delicto*); protection against self-incrimination; prohibition of all forms of ill-treatment during detention; stipulation that all detainees must be brought before a judge within 24 hours of arrest; and guarantees for the right of detainees to legal counsel from the moment of arrest. What the reforms have added are new provisions or expansion of previous safeguards.

The 1986 Federal Law to Prevent and Punish Torture defined torture as a crime for which prosecution is mandatory, establishing a penalty of up to eight years imprisonment for law enforcement agents found guilty of torture as well as dismissal from duty for double the time of the prison sentence. The law included provisions for the recognition of detainees' rights to proper medical care and prohibited the use of evidence obtained through torture in legal proceedings. But its ineffectiveness led to its reform in 1991, expanding the penalty for the crime of torture to a maximum of 12 years imprisonment and providing for the payment of compensation to victims of torture and

their families.

The Federal Code of Penal Proceedings and the Penal Code for the Federal District were also reformed, limiting the role of the police in questioning defendants and mandating interpreters for non-Spanish speaking defendants. They also reinforced the prohibition of arbitrary arrests and incommunicado detention as well as any form of abuse or intimidation. The value of confessions as evidence was further limited by a stipulation that confessions are to be considered valid only when accompanied by additional evidence and when made before the Public Ministry or the courts and in the presence of a defense counsel.

Unfortunately, case after case documented by Amnesty International demonstrates that many of these reforms are routinely ignored. The police and other security agents continue to torture detainees, confessions continue to be extracted in this manner, defendants continue to be convicted thanks to these "confessions," many non-Spanish speaking defendants continue to lack translators, and the police and other security forces continue to enjoy impunity. In fact, to Amnesty International's knowledge, not one police officer has ever been convicted under the 1986 Federal Law to Prevent and Punish Torture, not in its original or modified versions.

The ineffectiveness of these legal reforms did not escape notice of the international and Mexican community and compelled the Administration of President Salinas de Gortari to create, in 1989, the General Human Rights Directorate whose purpose was to receive complaints of human rights abuses and make recommendations for their investigation and prevention to the relevant authorities. Yet this was not enough and so, in June 1990, following the murder of human rights lawyer Norma Corona Sapién, President Salinas de Gortari announced the creation of the National Human Rights Commission which incorporated many of the functions of the Directorate and added to its work: the promotion and education of human rights, the formulation of a national policy for the respect and defense of human rights, and the presentation of this policy nationally and internationally.

A key function of the Commission has been to issue recommendations for action to resolve the numerous claims of human rights violations. However, the Commission has a policy of accepting only those complaints of torture which are fully documented, despite the acknowledgement by the Commission's authorities that torture methods used in Mexico leave little or no trace of visible trauma. Furthermore, it does not have the authority to enforce its recommendations. It can only prescribe actions to the authorities and hope that they are followed. Unfortunately, the office that is responsible for the investigation and punishment of human

rights abuses, the Public Ministry, is the same office which is responsible for the detention and prosecution of criminals. In other words, this is the same governmental body that oversees the Federal and State judicial police and other security forces. This fact may preclude the objectivity of said investigations.

In her testimony of September 30, Principal Deputy Assistant Secretary Nancy Ely-Raphel stated that she believed the Commission is "proving to be effective." This sentiment was also echoed by Counsellor Timothy Wirth before the Senate's Committee on Commerce, Science and Transportation on October 21 of this year. As evidence, she cited figures indicating that the Commission's efforts have "resulted in disciplinary action against 1031 government employees" and that criminal charges have been filed in 348 of those cases, noting however that "it will take some time for the 348 cases to move through the judicial system." We do not concur, based on this evidence, that the Commission is "proving to be effective."

During its first two years of operation, the Commission received 10,244 complaints of alleged human rights abuses and issued only 269 recommendations based on 235 cases. Of these recommendations, 136 have not been fully complied with. Furthermore, there is evidence which suggests that this number underestimates the number of cases in which the recommendations of the Commission have been either partially or totally disregarded. Amnesty International was informed by a Mexican official in August of 1992 that even when the recommendations of the Commission are followed and guilty officers are dismissed from duty, there is no effective mechanism within the Mexican security forces to ensure that dismissed officers are not re-employed and given similar duties at a different location. Dismissals or transferals can not be equated with prosecution for criminal activity.

Finally, it is important to note that many Mexican human rights organizations have reported difficulties with the Commission. Indeed, El Proceso reported on July 5 of this year that the Commission has at times inappropriately attacked independent human rights groups such as the Binational Center for Human Rights of Tijuana, Baja California; and the Human Rights Center "Fray Bartolomé de las Casas," of San Cristóbal de las Casas, Chiapas. Amnesty International has noted such difficulties in the past.

As mentioned above, the Commission depends on the office of the Attorney General in the Public Ministry for the execution of its recommendations. This has not been an easy interaction, particularly with the first Attorney General that interacted with the Commission, Enrique Alvarez del Castillo, whose offices even bugged the offices of the Commission. His dismissal was followed by the appointment

of Ignacio Morales Lechuga who also left under a cloud at the end of 1992, to be replaced by Jorge Carpizo who had been President of the Commission.

Jorge Carpizo's appointment was seen by many as indicating the possibility of greater cooperation between the Ministry and the Commission. The testimony of Ms. Ely-Raphel indicated that 1205 officials have been dismissed from the Public Ministry, 300 have been prosecuted and 45 convicted to prison terms. This certainly could indicate that Carpizo is ridding the Ministry from corrupt officials but it does not indicate that this action per se is having a positive effect on the implementation of the Commission's recommendations. As in the numbers provided on the result of the Commission's efforts, details are few and far between as to what those numbers actually represent.

Despite the above's seemingly positive developments, Carpizo's tenure has been questioned. Although he created the Executive Office of Human Rights Protection within the Public Ministry to ensure greater concern for human rights within the Ministry, in September 21 of this year its Executive Director, María Guadalupe Andrea Bárcena, a well-known human rights activist, resigned from her appointment. In a biting letter addressed to Carpizo accompanying her resignation, Andrea Bárcena wrote that "<my office> finally found itself in the basement, both physically and conceptually, where our work was thwarted by doublespeak, corruption, and espionage." She concluded the letter by stating her opinion that, "the Public Ministry continues to be a cruel giant when it comes to the weak and a coward when it comes to the powerful." Such biting criticism should be examined in depth.

Thus, the great tragedy of Mexico: reforms upon reforms, institutions upon institutions, all apparently trying to improve the protection of human rights. But somewhere along the line, the political will falters and the laws are not enforced: abusers are not prosecuted for human rights crimes and the criminal justice system continues to rely upon confessions extracted by torture. And the survivors of state violence or their relatives seeking redress come against a wall.

But all is not hopeless. After all, the reforms are in place as are institutions which, if they were allowed to operate unhampered, could protect human rights. The laws if enforced could prevent and punish torture and other human rights violations; the Commission could ensure that violations were clarified and rectified. This is where international attention can be a positive complement to the efforts of domestic NGOs and those officials who are genuinely interested in improving the human rights situation.

The case of the death in custody of Mario Amado is illustrative of this. On 6 June 1992, Mario Amado, a Mexican-American, was found hanging in his cell. He had been arrested earlier that day for drunk and disorderly conduct. His brother, Joe Amado, was called to identify the body the same day of Mario's death. Beginning a relentless campaign that would eventually garner much media coverage as well as enlist US Congressional help, Joe arranged for a second autopsy in the US, which concluded that it was impossible for Mario to have hung himself because prior to his death he had suffered massive internal bleeding as a result of a severe blow. Further investigations on the sweater and fibers found on Mario's neck by the Federal Bureau of Investigation concluded that the marks on his neck were consistent with a cord or belt and not the sweater that the Mexican police chief said Mario had used to hang himself.

On 19 March 1993, Congressman Berman, who played a key supporting role in Joe's quest for justice, declared after the report of the third autopsy was made public: "Our suspicions have been confirmed... Without some extraordinary intervention, this would have been left as a suicide."

This finding prompted a letter by President Salinas de Gortari to the Amado family promising to prosecute if the death was found to be a homicide by a commission formed to investigate. The report of a third autopsy commissioned by the Mexican investigation team concluded that Amado's death was a homicide. In May of this year, José Antonio Verduzco Flores, a Mexican police officer, was formally accused of Joe's death although he was not formally charged with murder. However other questions remain about the culpability of the suspect. But at least the truth was uncovered.

The same cannot be said about the purported suicide of William Yost, a Washington-based Peace Corps worker, who allegedly used his own hand gun to commit suicide while in custody of Mexican immigration officials on 15 August 1992. Although ongoing investigations have not revealed any evidence to the contrary, there is important testimony which indicates that Mr. Yost was of sound mind and accounts of his last hours do not indicate that Mr. Yost would have had any reason to end his life. Furthermore, the investigating attorney, Mr. Abbe Lowell, has made repeated requests of the Mexican Government to obtain the weapon for further tests. To date, this request has not been satisfied. It is important to acknowledge that this past summer the Mexican Government allowed Mr. Lowell access to the immigration officials who had contact with Mr. Yost. Indeed, those interviews revealed that up to his last hours, Mr. Yost was in good spirits and talking with his captors.



Perhaps this investigation could have proceeded more quickly if the Yost family had had support from US Government officials early on. Susan Yost Straley, Mr. Yost's sister, was quoted in the Washington Post as saying that when they sought support from the Peace Corps, the family was told to "not.. make any statement to the media" and were told to "direct everything to the Peace Corps press agency. They said that there was a recent trade agreement and they didn't want any adverse publicity, and because there was a Republican convention going on..."

No one can discount the value of combining international and domestic pressure in resolving human rights cases nor can anyone deny that there are authorities within Mexico that are genuinely interested in human rights who can always take advantage of such alignment. It is the combination of international with domestic pressures that can result in an improved human rights situation. In the case of Mexico, given its institutions and legal codes, the international community's interaction with the domestic actors is invaluable.

On September 29 of this year, Fernando Solana, the Mexican Foreign Minister, declared before the 48th session of the General Assembly of the United Nations that "the agreements reached <at the World Conference on Human Rights> must translate into a strengthening of the existing legal instruments." Perhaps he could take heed of his own words and lead the government of Mexico to declare that it recognizes the competence of the United Nations Committee against Torture to receive complaints from individuals who claim that the government has violated its obligations under the Convention against Torture. This recognition would fulfill Article 22 of the Convention and could result in greater pressure on the government of Mexico to ensure it positively resolves torture allegations, hence strengthening the claims of domestic and international NGOs as well as that of Mexican officials who are truly interested in ridding their country of human rights violations and doing away with impunity.

There are indications that the Mexican Foreign Ministry is moving in a more progressive direction. At the level of the United Nations, the Mexican delegation, under the leadership of Ambassador Tello, has been informally examining the differences between southern and northern countries vis-a-vis the World Conference on Human Rights' proposal to create a High Commissioner for Human Rights. The most positive aspect of this proposal is that this position would be independent and impartial and thus would be assured some insulation from political pressures that other bodies of the United Nations must contend with. Although the Mexican Mission has not formally supported the

creation of a High Commissioner, which would be a very positive sign, its informal actions have been characterized as very constructive.

At the regional level, in the previous three sessions of the General Assembly of the Organization of American States (OAS), the Mexican delegation had taken the aggressive stance, along with the Uruguayan delegation, of attacking the work of the Inter-American Commission on Human Rights (IACHR), the OAS body that oversees compliance with the American Convention of Human Rights, to which Mexico is party. In this year's meeting of the General Assembly (June), the Mexican delegation announced its support for the IACHR and explained on numerous occasions that it did not intend to propose modifications to the Convention that would alter the authority of the IACHR. It also supported the work of the Inter-American Court on Human Rights although asking for clarification of its ability to interpret the Convention. Perhaps this may indicate that the Mexican Government may consider accepting the competence of this body, which would also be a positive step in strengthening the hand of those who have human rights claims on the Mexican state. We do not know the reasons behind the change in the Mexican delegation's stance towards the Inter-American system of human rights protection and thus, we hope this reflects a real commitment to human rights instead of a temporary strategic shift based on political expediency.

Such international compliance could make significant contributions to the human rights situation in Mexico. Indeed, this international dimension can strengthen the actions of both governmental and non-governmental agents and actors in Mexico. The recognition of the importance of international pressure leads many in the human rights community to be disappointed by the lack of actions or statements by the part of the US Government. High level discussions such as those that took place around NAFTA offered a golden opportunity to bring up such matters. It is still not too late for the Clinton Administration to follow the lead of some members of Congress in expressing publicly that those fighting for human rights in Mexico can count on unconditional support from the US Government.

As we mentioned earlier, we commend that these hearings are taking place despite the sensitive timing. Yet we must reiterate our conviction that political expediency should not cloud the underlying problems. We are aware that the Administration has high stakes on the passing of NAFTA but the Administration should not resort to minimizing the human rights situation in Mexico to ensuring the passing of NAFTA. In his testimony, Counsellor Wirth stated that "NAFTA will reinforce Mexico's unprecedented efforts to maintain its political institutions. It will bring greater public scrutiny to Mexican governmental actions and make the

Government more accountable to its people." We do not see such evidence. Instead what we do see is a fear that these very valid human rights considerations may somehow derail NAFTA and hence, the attempts to paint a rosier picture. While we should all acknowledge the reforms the Mexican government has undertaken, we should not then assume that these are automatically translating into an improved human rights situation. As our testimony shows, political will is lacking in Mexico to ensure these reforms have their desired effect.

There are other concrete ways that the US Government can indicate its commitment to human rights in Mexico. The US Ambassador to Mexico could be instructed to place special emphasis on following the problem of impunity, perhaps being asked to submit a detailed report that analyzes the statistics provided by the Commission or the Public Ministry in such a way that these numbers reveal what is really happening to violators of human rights. The Mission could be instructed to have public contact with members of the Mexican human rights NGO community and indigenous leaders in order to hear their views and receive their assessment of the human rights situation in Mexico. The Mission could also be instructed to meet with survivors of human rights violations thus sending an unequivocal message of concern. Indeed, the US Ambassador could learn from the experience of former US Ambassador to Honduras, Cresencio Arcos, who by making public pronouncements against impunity was instrumental in the conviction of a human rights violator in the Honduran army. Finally, Assistant Secretary Shattuck should visit Mexico for frank discussions on the human rights situation. Certainly such actions would be welcomed by Mexican human rights NGOs.

There are many creative ways the US Mission could aid those within Mexico that are struggling for human rights. What is needed to make this a reality is the political will, here in Washington, to ensure that the US Mission can become a dynamic agent for the protection and promotion of human rights in Mexico. Other concerns, including NAFTA, should never be allowed to preclude effective public action to reenforce the work of those within Mexico that are struggling for the transformation of the Mexican Government into one that can guarantee the basic protection of the human rights of all the Mexican citizenry and the prosecution of all those who would violate these rights and keep Mexico from fulfilling its mission of ensuring a civil and dignified life for all.

**Lawyers Committee** for Human Rights

# THE AMERICAS

## CRITIQUE

Review of the U.S. Department of State's  
Country Reports on Human Rights Practices for 1992

## MEXICO

*This is one of 79 country sections contained in the Critique. A copy of the State Department's report to which this excerpt responds is also attached. Full copies of the Critique are available from the Lawyers Committee.*

## MEXICO

The State Department's report on human rights in Mexico accurately states that human rights violations related to personal freedoms, electoral processes, prisoners' rights, press freedoms and judicial processes are widespread in Mexico, and that many such violations go unpunished "... owing to the culture of impunity that has traditionally surrounded human rights violators" (emphasis added). However, the report fails to provide a context that would explain why such a "culture of impunity" continues to exist. It also fails to state in unequivocal terms that the government of Mexico bears full legal responsibility for human rights violations which occur in Mexico and the continuing failure to prosecute violators. The report barely mentions certain topics, such as human rights violations against women and workers and the continuing impact of a flourishing drug trade on official corruption and human rights violations.

The structure of the report - its emphasis on certain subjects, its omissions and its failure to directly criticize the Mexican government and the administration of President Carlos Salinas de Gortari - appears to reflect the Bush administration's policy toward Mexico, which included restraining criticism of the Mexican government to avoid potential harm to the bilateral relationship and the pending North American Free Trade Agreement (NAFTA). The report's inappropriately neutral tone and uneven substantive emphasis fail to convey the full dimensions of the human rights problem in a nation with over 400 reported cases of torture, institutionalized violence by secu-

nty forces, near-total official impunity, routine electoral fraud and a litany of other serious derogations from the rule of law.

The Institutional Revolutionary Party (PRI) has governed Mexico and controlled the resources of the Mexican state, without interruption or significant competition, since the late 1920s. While the report mentions the "dominance" of Mexico's government by the PRI during the party's 70-year existence, it fails to clarify the degree to which the PRI and the Mexican state are, in practice, virtually indistinguishable. The report discusses some human rights improvement, but it still fails to explain the link between human rights abuse and a failure of commitment by PRI leaders in government to promote the exercise of rights and punish violators. Not surprisingly, the recent challenge of the left-of-center Democratic Revolutionary Party (PRD) has generated, in addition to earnest political rivalry, increased assassinations, "disappearances," electoral fraud and other human rights violations directed at the PRD and its followers. The older and right-of-center National Action Party (PAN) and several other smaller political parties have been similarly affected in specific cities and states where they pose a threat to the PRI.

According to novelist and former conservative candidate for the presidency of Peru, Mario Vargas Llosa, Mexico is the "perfect dictatorship" because

it is a camouflaged dictatorship.  
It . . . has all the characteristics

of dictatorship: the perpetuation . . . of an irremovable party, a party that allows sufficient space for criticism, provided such criticism serves to maintain the appearance of a democratic party, but which suppresses by all means, including the worst, whatever criticism may threaten its perpetuation in power.

Vargas Llosa's particular characterization of the PRI's rule is open to debate; however, the government's authoritarianism and responsibility for human rights violations are not. Historically, the PRI has sought to incorporate all significant social, political and labor organizations into its pyramid of affiliated organizations. Traditionally, emerging independent groups and outspoken critics have been co-opted or literally bought off by the PRI or, as a last resort, repressed out of existence. In each case, the actions taken have been supported by the power and resources of the Mexican government.

This pattern began to change somewhat in the 1980s, as the debt crisis drastically diminished the government's capacity to meet the basic needs of the Mexican people and the PRI's ability to reward its followers and co-opt the opposition. Toward the end of the decade, in unprecedented developments, Mexicans began to establish grassroots organizations independent of the PRI and to question "business as usual" in Mexico, which has often included human rights violations. In the late 1980s, growing disaffection with the PRI led small leftist parties and independent citizen organizations to coalesce around Cuauhtemoc Cardenas, who had left the ranks of the PRI in

1987, to form the opposition PRD after the 1988 presidential elections. Similarly, the PAN also grew stronger in traditionally conservative areas, such as the states of Guanajuato, San Luis Potosí, Sinaloa, Durango, Yucatan, the northern border states of Chihuahua and Baja California Norte and certain cities in other parts of the country.

Popular discontent in the 1980s culminated in the presidential election of 1988 in which the PRI faced a strong challenge by the presidential candidacies of the PRD's Cardenas and the PAN's Manuel Clouthier. Salinas was officially declared the winner with slightly over 50% of the popular vote, amid credible claims of widespread fraud. Many Mexicans still believe that Cardenas actually won. The 1988 election set the pattern for virtually every subsequent election (state, federal and local): hotly contested electoral races, political violence and electoral fraud.

For the first time in its history, the PRI's hold on political power is being seriously threatened, which explains why opposition parties, especially the PRD and the PAN, and their followers have been targets of violence and electoral fraud. The report acknowledges the persistence of such violations in 1992, but fails to examine the government's failure to take adequate measures to curb the violence, eliminate the fraud and prosecute crimes committed against the political opposition. Such inaction compels the conclusion that the Salinas administration lacks the will to ensure the protection of human rights in Mexico for all persons, without regard to political affiliation. Indeed, a long shadow is cast on the legitimacy of

the electoral process throughout Mexico. The number of relatively "clean" elections which took place in 1992, as in Chihuahua where the PAN won its third governorship, is low compared to the number of elections plagued by violence and gross irregularities.

In 1992, two newly elected PRI governors stepped down from their posts at the request of President Salinas after credible allegations of fraud and significant public protests. Two other governors were similarly removed in 1991. The report only mentions the case of Michoacan in 1992, but the governor of Tabasco also resigned in January after Mexico City's central plaza filled with thousands of peasants from Tabasco who protested what they said was widespread fraud in elections the previous November. These removals from office of newly elected governors took place *without* admissions of fraud by the outgoing official, without findings of fraud by the relevant electoral commission and curiously, without protests from PRI voters who presumably had the expression of their political will annulled. As long as elections are resolved or doctored in such an authoritarian and irregular manner, the Mexican electorate will be justified in questioning the outcomes of virtually any election. Events in 1992 demonstrated once again that the voters do not have the last say at the ballot box in determining who their government leaders will be.

The report accurately states that electoral fraud, torture, unlawful detention and imprisonment, extrajudicial killings, prison corruption and judicial abuse are widespread and committed with impunity. However, the report fails to state

unequivocally that the Mexican government bears full responsibility for all such violations and the failure to prosecute the violators. The report implies that the government, led by President Salinas, does not bear such responsibility. It largely faults the "culture of impunity," almost as if no one in a high level position were responsible for it. Civilian governments sometimes lack sufficient power to confront security forces on human rights matters, but the entrenched PRI cannot credibly make such a claim. Such failure on the part of the Mexican government and the ruling PRI is the result of design or omission, but not incapacity. The report avoids such a conclusion despite a recital of facts which make it readily apparent.

The report cites President Salinas' support of the National Human Rights Commission (Commission), which he created in 1990, as evidence of the President's stated commitment to reform human rights practices. However, the Commission, at best, is of limited effectiveness in combatting human rights violations and prosecuting violators. The report acknowledges that the Commission possesses no prosecutorial powers, forcing it to rely on "the pressure of public opinion and the accuracy of its investigations to induce compliance with its recommendations to state and federal authorities to investigate and prosecute transgressors." Notwithstanding expressions of presidential support, the report admits that many of the Commission's recommendations have been only partially implemented. The report cites Commission statistics which show that since the Commission's inception in 1990 through November 1992, only 160, or less than

39%, of the Commission's total of 412 recommendations were fully implemented. During the same period, criminal charges were brought against only 246 employees, which is an extremely low number given widespread violations. Furthermore, the report neither reveals the severity of the charges, nor the conviction rate. The report does not describe adequately government success in prosecuting and convicting human rights violators, especially when compared to the long list of violations which it acknowledges. Moreover, the report fails to explain the contradiction between President Salinas' stated commitment to prosecute human rights violators and a dismal prosecution record.

The failure to prosecute human rights violators rests with state prosecutors and the federal Attorney General, a cabinet officer appointed by the President. The report does not mention this fact and fails to explain the failure of prosecutors across Mexico to execute the Commission's recommendations. The report's failure to address these issues is inexcusable, because the repeated failure to prosecute human rights violators at all levels in Mexico substantially explains why the "culture of impunity" persists.

The report implies that police torture and brutality declined because allegations of such violations declined in 1992, according to the Commission. The report attributes such a decline, in part, to the work of the Commission and the President's commitment to prosecute offenders. Non-governmental human rights organizations in Mexico believe the alleged decline is merely statistical, attributable to restrictive criteria which the

Commission now applies in defining cases of torture. In fact, in November the UN Committee Against Torture (CAT), the body that oversees compliance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Mexico is a State Party, criticized the Mexican government's failure to curb torture, prosecute human rights violators and compensate victims. Governments are required to submit reports to the CAT every four years to demonstrate compliance with the Torture Convention. In the case of Mexico, the CAT considered violations of the Torture Convention to be egregious; therefore, it directed the government to report again in 1993, and suggested that Mexico seek United Nations assistance in achieving compliance. The State Department report is entirely silent concerning the CAT's findings.

Following the Committee's session, in December 1992, the government amended existing legislation to impose longer jail terms for convicted human rights violators and compensate victims. In January 1993, President Salinas removed the president of the Commission, Dr. Jorge Carpizo, and appointed him as the federal Attorney General. The prior legislation may have been weaker than the new amendments but the chief problem was, and continues to be, lack of enforcement. With respect to Carpizo, President Salinas frequently made public affirmations of strong support of him and the Commission, yet such support, to date, has proved insufficient to reduce impunity. The new measures will be, in the end, purely cosmetic unless they are accompanied with a real commitment to prosecute human rights violators.



The same can be said of the constitutional amendment the Congress enacted in January 1992, at the request of President Salinas, which accorded constitutional status to the Commission and directed the States to create their own state human rights commissions by January 1993. The amendment confirmed the exclusion of labor and political rights from the Commission's mandate, and limited its authority to the appellate review of the decisions of the new state commissions. The report states that the Commission, thereby, was made independent, and generally discusses the constitutional changes in a positive tone. This interpretation follows the lead of the Salinas administration, which touted these new measures as proof of the government's commitment to protect human rights.

Substantial reasons for skepticism exist. In effect, the government replicated a weak national institution at the state level and further weakened the original Commission by removing its original jurisdiction. Moreover, instead of taking effective measures to end police and military abuse, ensure that prosecutors do their jobs and guarantee that the courts dispense justice, the government chose to expand a bureaucratic structure which has to date ineffectively protected human rights, and which constitutes a parallel appendage to the justice system, but without prosecutorial power or the ability to compel the system to act on its findings.

Finally with respect to the Commission, the report also fails to mention a controversy which arose in 1992 as a result of a draft investigative report leaked to the press which is on the sub-

ject of "disappearances" during the 1970s in the state of Guerrero. The unofficial draft report concluded that security forces had engaged in torture, forced "disappearances" and summary executions, but declined to identify any living violators for prosecution. Non-governmental human rights organizations and relatives of victims criticized the draft report as incomplete or worse, as a whitewash motivated by the fact that some of the alleged human rights violators of the 1970s hold high office in the Salinas government. The Commission has not yet issued its final report and has said little on the subject. The manner in which the Commission deals with this report will say much about its willingness to deal forthrightly with the issue of impunity.

In the 20 paragraphs devoted to the subject of worker rights, the report primarily repeats last year's recitation of provisions of Mexican labor law, but does not acknowledge the widely recognized gap between generous labor legislation and actual practice. The report fails to clearly identify a single human rights violation or the extent to which the government and the PRI control organized labor. It creates the overall impression that the government does not merit criticism for human rights practices in the labor area. In fact, Mexican workers continue to face the risk of physical violence when they attempt to exercise their rights of free speech and association during labor disputes. The omission fuels suspicion that the report's analysis is subordinate to the determined pro-NAFTA stance of the Bush administration. Regardless of its merits and/or defects, NAFTA policy should have no role in the

reporting of human rights abuses.

The government's control over organized labor, via union affiliation with the PRI and authority to certify the legal status of unions and labor strikes, is much tighter than the report implies. Human rights are violated by the limitation of workers' rights to freely and democratically choose their unions and their leaders. Also, dissident workers often encounter violence from the governmentally-recognized unions or from the police, especially in the case of a strike that has been declared illegal. Prosecutions are rarely pursued.

The report does not mention any cases of labor disputes which led to human rights violations against workers at the hands of Mexican police in 1992. It should have cited one case, at least, that received considerable notoriety in Mexico which concerned the striking Volkswagen workers in Puebla who sought to block a reorganization and the adoption of higher productivity standards. The government's Conciliation and Arbitration Board supported Volkswagen's management and cancelled the collective contract, which led to the firing of 1-4,000 workers and a selective rehiring under terms more favorable to the company. On August 20, police attacked dissident workers, who were peacefully demonstrating near the manufacturing plant, with clubs and dogs. Twelve protesters were injured in the confrontation.

Corrupt union leaders have been tolerated and encouraged by the government, as long as they prevent wildcat strikes and efforts to form rival democratic unions. Recently, labor leaders who

have presented problems or outlived their usefulness have run into legal problems which conveniently removes them from the scene. The case of Agapito Gonzalez mentioned in the report is only the latest example. The pattern began in 1989 with the removal of the powerful leader of Mexico's petroleum workers' union.

The report accurately identifies human rights violations which chilled freedom of speech and the press, but fails to assign responsibility or offer an explanation for the violations. It does accurately state that there are significant restrictions on press freedom which stem from fundamental problems with government-press relations. Government reforms mentioned by the report have been meager and have not led to significant changes. The State Department appears to overstate the impact of these reforms.

The report also fails to mention the government's control of the press through the placing of government-paid articles. Most newspapers run such articles without informing their readers of their origin. More than 20 daily newspapers in Mexico City create the appearance of a vigorous press, while in fact, many are largely dependent on government subsidies. So indebted, many newspapers are eager to print coverage favorable to the government. Self-censorship resulting from awareness of this dependence is an even greater pressure on the media and individual journalists. For example, Mexico City's only English-language daily, *The News*, fired a reporter for filing a story in the United States critical of the PRI, which the reporter had not been permitted to publish in *The News*.

Self-censorship is worst in television journalism, probably, in large measure, because almost 90% of Mexicans get their news from television. The massive radio and television conglomerate, Televisa, controls an overwhelming proportion of audience share and is the most guilty of self-censorship, especially in newscast editing. PRI candidates and government spokesmen are heavily covered, while opposition candidates are rarely seen or heard on any Televisa station, as noted by the report.

The report largely attributes the underreporting of violence against women to "social tradition." While this may play an important role, the failure of police to intervene, noted matter of factly by the report, is in all likelihood an important reason for this as well. "Social tradition" rooted in a futile experience at the hands of the justice system is a government responsibility, one which the Salinas administration did not tackle effectively in 1992.

The report minimizes the control state governments exert over indigenous peoples throughout the country. For example, the criminal code of the state of Chiapas permits the prosecution of sedition of anyone who "gathered tumultuously, but without arms" and impeded government functions. The definitions for "rioting" and "insurrection" are similarly broad and refer to the interruption of governmental functions. These provisions in the Chiapas criminal code have been used to prosecute individuals involved in takeovers of public buildings to protest electoral fraud and other official abuses.

One blatant example of how the state government of Chiapas has abused its criminal code and police power to maintain control over the indigenous population occurred on December 28, 1991. Eight people suffered serious injuries and 103 were arrested when 200 policemen violently removed from the central square in Palenque 300 peaceful demonstrators seeking basic municipal services. After three days of alleged torture, 94 of the detainees were set free. Eight of the remaining nine were suspected of being the leaders and were charged with sedition and rioting, among other crimes. All were released after a month in detention, but only through the intercession of the Commission, which found no *prima facie* evidence against any of the detainees for any of the charged crimes.

The report is largely silent concerning the role of the drug trade in contributing to corruption of officials and human rights violations in Mexico. U.S. officials' accusations that Mexican efforts to control the drug trade are insufficient often have angered Mexican officials and strained U.S.-Mexico relations. The Salinas administration has devoted greater resources to combating drugs and cooperating with the U.S.'s Drug Enforcement Agency, which has helped reduce U.S. criticism. However, the government's war on drugs also has led to an increase in human rights violations committed by the police and the military, who lead the anti-drug effort. According to non-governmental human rights organizations in Mexico, respect for human rights is often accorded less importance than making an arrest or obtaining a confession.

A well-documented and widely-publi-

cized case originated in Babongame, an isolated village in the mountainous region of the state of Chihuahua. Thirty Tepehuan Indians accused the Mexican Army of unlawful arrest, torture, theft of personal property and destruction of homes in the course of an anti-drug raid. The Army admitted to some of the charges, but sought to justify their actions on the grounds that the detained individuals were involved in the cultivation of marihuana. Only after considerable pressure from human rights groups and the media, the Army agreed to investigate whether any soldiers had committed crimes. According to human rights groups, such violations as occurred in Babongame are common throughout Mexico.

Human rights activists also allege that the failure to undertake drug raids against certain known drug traffickers or in drug-producing regions can only be explained by the illicit cooperation between drug barons, the police and the military. Such cooperation was further revealed by the press, human rights groups and the government in 1992, in the cases concerning the investigation of the 1990 murder of human rights activist Norma Corona Sapén and the November 1991 killings of seven judicial police by the Army in a shootout in Tlaloxcoyan, Veracruz. Allegations of links between traffickers, the police and/or the Army abound in both cases, but neither case has been resolved.

The persistence of widespread human rights violations in Mexico and the impunity with which such violations are committed contradict the stated commitment of the government and President Salinas to improve human rights practices. Re-

spect for human rights will improve in Mexico only with stronger measures backed by the requisite will at all levels of the Mexican government, beginning at the highest. The record demonstrates that despite substantial international attention to Mexico's human rights practices in connection with debate over NAFTA, such will was largely lacking in 1992. Consistent with U.S. domestic legal obligations and the Clinton administration's stated commitment to human rights, the State Department should sharpen the focus of its human rights reporting on Mexico in the coming year.

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AUG 20 1993

POLITICS

# Murder Arrests Hint of Cover-Up, Raise Doubts on Mexico Reform

By JUANITA DARLING  
 TIMES STAFF WRITER

**MEXICO CITY** — Throughout President Carlos Salinas de Gortari's five years in office, his detractors have pointed to the unprovoked killing of opposition campaign officials as proof of how extreme political repression can be here.

Now, just as Salinas is pressing for passage of electoral reforms meant to assuage criticism that his widely acclaimed economic liberalization has not been accompanied by a greater political freedom, evidence that supports the worst suspicions about the deaths.

A former state attorney general and two of his subordinates have been arrested in connection with the murders. Testimony being released now suggests a cover-up of the federal attorney general's office.

News of the investigation has shared the front pages of national newspapers with opposition accusations that all points of view have not been considered

in the current electoral reform.

The combination of the two concerns raises questions about the sincerity of Salinas' electoral reform offer and, more specifically, how fair and democratic the 1994 presidential elections will be.

"The government is going to get their troops off the street in the 1994 election," said Adolfo Aguilar Zinser of the National Autonomous University of Mexico. "It has taken so long to solve this crime, whose links to the government have yet to be explained. This was clearly not a police investigation but a political investigation."

On the eve of the 1992 election, Xavier Ovando—who was coordinating a voting-watch campaign for leftist presidential candidate Cuauhtemoc Cárdenas—and his assistant, Roman Gil Herádez, were found in a car on a downtown street four days before the 1988 election, in which many Mexicans believe Cárdenas was a victim of a vote-buying scandal.

Mexico City police first blamed the murders on criminals Ovando had investigated while attorney general of the state of Michoacán. But under pressure from Ovando's colleagues, the case was turned



Associated Press  
 New evidence in the murder of opposition campaign official Francisco Xavier Ovando suggests an official cover-up.

over in January, 1992, to special federal prosecutor Leonel Godoy, a former federal deputy for Cárdenas' Democratic Revolutionary Party, known as the PRO.

Godoy found that the investigation was fraught with irregularities and manipulations of testimony and evidence. A key witness told Godoy that state and federal agents promised him his release from prison, a passport and money to buy a house, if he testified against the men accusing PRD officials of masterminding the murders. The witness said he was interviewed by an official of the federal attorney general's office.

Godoy ordered the arrest of Jose Francisco Villa, the former Michoacán state attorney general, and two associates. Additionally, he ordered the arrest of Jose Peres. They are accused of taking part in the cover-up and a related murder of a state police officer.

"This connection with the state government confirms what we always suspected," said Sergio Aguayo, president of the independent Human Rights Association. "It has been obvious to everyone all the way up to the person who gave the order. It shows how deeply corrupt and degraded our law enforcement agencies are."

Unraveling the facts surrounding the double murder also provides a haunting

suggestion of how far some party faithful may be willing to go to assure a candidate's victory in a presidential election. Tens of thousands of patronage jobs throughout the country depend on such decisions, and the ruling Institutional Revolutionary Party, known as PRI, has not lost one in six decades.

Under Salinas, right-wing opposition party governors have taken office for the first time in three states. But PRD victories have been recognized only in municipal and legislative elections.

The electoral reform Salinas sent to Congress in July is supposed to provide the assurance of free, fair elections in time for next year's presidential race. It would limit sources of campaign financing, give each state a third senator, repressing the party that was first runner-up in the election, and increase the number of elections now a constitutional prerequisite to an appointed electoral board.

The changes require constitutional amendments, which must be passed by two-thirds of the Congress. The PRI has a simple majority but needs votes from other parties to change the constitution.



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 MAR 12 1993 P-A1, A18

## In Mexico, System Turns Cops Into Robbers

### Capital's Mayor Vows Change, but Graft Is Deeply Entrenched

By Tod Robberson  
 Washington Post Foreign Service

MEXICO CITY—A high price accompanies the privilege of serving as one of Mexico City's finest.

The average patrolman pays the equivalent of \$1 in bribes to his superiors for each bullet he fires, \$50 for his uniform—more if he wants one that fits—\$200 per month to rent his gun and \$65 per day for the use of a patrol car, not including the gas, maintenance and repair fees that he pays from his own pocket.

To encounter one of Mexico City's finest can carry an even higher price. For journalist Rafael Luviano, the price for speeding one night last November included

the \$350 that three patrolmen took from his wallet, another \$1,000 they forced him to withdraw from an automatic teller machine, \$500 for the radio they stole from his car and \$700 for his gold watch.

There is no way, Luviano said, to measure the price of the eye he lost when one of the patrolmen pistol-whipped him.

Corruption in Mexico City's police force is out of control, according to more than 400 protesting officers. They interrupted Mayor Manuel Camacho Solis last month during a welcoming ceremony for Britain's Prince Charles, with local and international media look-

See MEXICO, A18, CONT

# Mexican Police Corruption Builds Up From the Street

MEXICO, Feb. 21

urg on. Camacho acknowledged to the protesters that the police force is a shambles and vowed either to eradicate corruption or quit his job.

Many Mexico City policemen and civilians say Camacho should start looking for new work. Several officers said their pay scale is so low and the problem of corruption so pervasive at every level of the city's 28,000-member police force that stealing and extortion have become accepted norms.

The problem of corruption, not just in law enforcement but throughout the government and private sector, has dogged President Carlos Salinas de Gortari as he works to modernize his country and encourage foreign investment. Because police bribe-taking can be witnessed on street corners and boulevards throughout the Mexican capital, it serves as perhaps the most blatant example of the challenge Salinas faces.

Alfredo Aguilar, who enforces no-parking regulations outside a downtown bank, offered a patrolman's perspective. "We have to work 14 to 17 hours a day, seven days a week. No, eight days a week." After 17 years, he said, his pay is about \$280 per month.

Aguilar said his colleagues often supplement their incomes by accepting petty bribes from motorists who seek to park in prohibited zones without fear of being towed. The price for bribing a street patrolman is about a dollar, Aguilar said, and a motorist must pay \$50 to \$100 to police tow-truck drivers not to impound his car.

"There is no written code requiring policemen such as Aguilar to pay for their uniforms or bullets. Rather, officers say, an informal economy of bribery and extortion developed over several decades as police pay scales failed to keep up with inflation. As the system evolved, police commanders began demanding more of the action.

Another foot patrolman, who would only identify himself as Roberto, described law enforcement in Mexico City as something similar to a small-business franchise. Everything is for rent or sale, from bullets to badges. Choice beats—those in high-income areas where "law breakers" are likely to have funds to pay bribes—are doled out by precinct chiefs to the highest bidders.

Roberto said that highly mobile tow-truck operators and patrolmen

in police cruisers have the most lucrative jobs, although they also bear the highest financial risk.

Usually when a motorist is stopped, Roberto explained, the policeman will ask to see his license and auto documentation. "The patrolman confiscates the documents and says he will hold them as collateral to make sure the traffic ticket is paid," he said. The idea of writing an actual citation, however, is laughable, he added.

Instead, the motorist is persuaded to pay the officer on the spot. Running a red light might cost \$20. Driving with an expired license might cost \$50. Getting caught driving on a designated "no-circulation day"—which every Mexico City motorist must observe once a week to help cut down on air pollution—usually costs \$100 or more.

The down side for police, various patrolmen said, is that all of the liabilities of using police equipment are borne by the user.

"The patrolmen are forced to rob citizens just so they can pay off their bosses," said officer Valentino Hernandez. "Enforcing the law has nothing to do with their work."

Former patrolman Raymundo Campa Roldan said he was reassigned to wash toilets and police cars, and later imprisoned briefly in a city jail, for threatening to expose corruption among his supervisors in 1990. Campa said a supervisor had ordered him to take the supervisor's children on a trip to Acapulco, with expenses paid by Campa. After receiving death threats, Campa said, he was reassigned to administrative duties in another precinct.

"It is impossible to eliminate corruption in this police department," Campa said. "You would have to get rid of everyone and start over. Corruption is a part of the system."

The average citizen speaks of Mexico City's police not in terms of respect but of revulsion and fear.

"I remember that as a child, many of us . . . wanted to be policemen," said journalist Luviano, who writes for the Mexico City daily *Excelsior*. "These days, my children are terrified by this prospect."

The police office of internal affairs reported 1,047 complaints of corruption last year, a figure described by street patrolmen and civilians as a minute fraction of what actually occurred.

Mexican newspapers have reported scores of cases of rape, robbery, assault, drug trafficking, kidnapping and killings by Mexico City

policemen as well as members of the Federal Judicial Police. The problem outside the city is reported to be similar but receives less attention. Attorney General Jorge Carpizo won praise among politicians last week when he unveiled an anticorruption program at the federal level.

After Luviano was robbed, kidnapped and severely beaten by three policemen last November, the response he received from all quarters of the population prompted him to form the non-profit Citizens' Defense Committee, which he said is dedicated to exposing police corruption.

Two of the three officers involved

in Luviano's beating were apprehended, with the assistance of a police dispatcher who recalled overbearing a radio conversation about Luviano. The two officers were convicted last month and are serving year prison sentences. The third was a fugitive.

Luviano reportedly has received about \$200,000 in compensation from the city, but he declined to confirm that figure. "This case we not have received this much attention if I weren't a journalist with ability to publicize what happened. Otherwise, nobody would have helped me," he said.

# Pennsylvania Avenue

By Morton M. Kondracke

100 people have been killed in election-related violence since 1988.

In 1988, most independent observers believe, Salinas lost the presidential election to leftist Cuauhtemoc Cárdenas, but was awarded a 50.4 percent victory by the government.

Despite his current 80 percent popularity rating and the near-certain election of the successor he picks, Salinas earlier that year hit up major industrialists for \$750 million in campaign contributions — at one dinner!

But NAFTA opponents shouldn't be allowed to make Mexico out to be Guatemala or Nigeria. It's more like a Prohibition-era big city political machine in the United States, and it is moving in the direction of democracy, which NAFTA-encouraged prosperity should enhance.

As William Orme writes in his superb book on the NAFTA debate, *Confidential Sale*, Salinas does not coordinate or condone political violence in Mexico, which mainly is employed by local bosses and drug lords, but finds it an embarrassment.

"Rejecting NAFTA wouldn't make Mexico more democratic," writes Orme. "But it could make Mexico poorer and more resistant to US influence. Ratifying NAFTA would speed Mexico's modernization and give the opposition greater access to the court of American opinion. That wouldn't guarantee democratization, but make [it] less difficult."

Significantly, the most modern and democratic part of Mexico is the north, closest to the United States, where Mexico's free-market party, the National Action Party (PAN), has won three state governments and dozens of municipal elections. PAN, while outspokenly hostile to PRI authoritarianism, overwhelmingly favors NAFTA.



Photo by Lance Peterson

Anti-NAFTA Sen. Frits Hollings: The Administration made its first attempt to defend the "positive transformation" of Mexico before his committee.

Partly, Congressional sources say, the Administration has been reluctant to bring forward such figures as former Reagan Secretary of State George Shultz to defend Mexico and NAFTA because it is afraid such witnesses might be asked about President Clinton's foreign policy performance.

Another reason, NAFTA backers say, is that the human rights/democracy case is a difficult one to make. Indeed, it is: Mexico is far from being a democracy. The Institutional Revolutionary Party (PRI) has been in power continuously since 1929 and historically has maintained its rule by bribery, rigged elections, tampering, and violence. Police tend to be brutal. Drug levels rule some states, and

## Mexico Isn't Yet Democratic, But NAFTA Will Help

Wrecked after they should have, backers of the North American Free Trade Agreement say they plan to start fighting against a congressional opposition campaign to depict Mexico as a brutal and corrupt dictatorship unworthy of a free trade relationship with the United States.

The Clinton Administration made its first defense of Mexico's twisted human rights and political reform record last Thursday at a Senate Commerce Committee hearing chaired by NAFTA opponent Sen. Ernest Hollings (D-SC).

At the hearing, State Department counselor (and former Colorado Democratic Sen.) Tim Wirth testified that "we recognize that the democratic process in Mexico needs improvement" but that an "unprecedented positive transformation has taken place in recent years, propelled by Mexico's political and economic opening to the outside world."

But Wirth's testimony scarcely denies the overwhelming historical advantage of NAFTA's opponents, led by Reps. David Bonior (D-Mich.) and Mancy Kapur (D-Ohio), who daily take time on the House floor to portray the regime of Mexican President Carlos Salinas de Gortari as a party of rampant vote fraud, bribery, and number of opposition leaders.

The Mexican government has failed to supply NAFTA supporters with material to counter the allegations, and both Administration and Hill backers of NAFTA admit they have been partly in error when

Mexico's other opposition party, Cardenas's Revolutionary Democratic Party (PRD), opposes the agreement, and its leading spokesmen — especially intellectuals Jorge Cauichola and Adolfo Aguilar — are often cited as authorities on Mexican political affairs by Bonior, Kapur, and Hollings.

Historically, however, the PRD leadership is old-line socialist and anti-US, associated with the most bureaucratic elements of the pre-Salinas PRI. It has renounced

## NAFTA backers have been slow to defend Mexico's political record, in part because it's a hard case to make.

Marrion and now professes to favor trade with the United States, but its candidates for office are not selected by any more democratic means than the PRI's are.

Salinas has often been likened to Mikhail Gorbachev as a practitioner of economic perestroika rather than democratic glasnost. He himself has said that if he tried to perform both reform revolutions at the same time, he would have been able to perform neither.

Indisputably, Salinas has substantially dismantled statist control of the Mexican economy, for which NAFTA opponents seldom give him credit.

A freer economy almost always results in freer politics, as has happened both in other parts of Latin America and in Asia. That's the case that NAFTA proponents have to start making.



## *Testimony by Nafta Critics Is Terminated by Televisa*

*By a WALL STREET JOURNAL Staff Reporter*

MEXICO CITY — A group of Mexicans testifying via satellite before a U.S. Senate committee were abruptly cut off by a powerful Mexican television station, raising new questions about freedom of speech as Mexico enters its presidential-campaign year.

The five Mexicans — all with varying criticisms of the North American Free Trade Agreement — lost video and audio connection with the Commerce Committee from the studios of Televisa SA.

A Televisa spokeswoman said the media conglomerate had "nothing to say on the matter." But Televisa was expected to deny in its late-evening newscast that it censored the testimony and affirm that it had met its contractual arrangement with the Senate, a government official said. The Senate had contracted for 1½ hours of time with Televisa, and communications were cut after less than an hour, a Senate staffer said.

Sen. Ernest Hollings (D., S.C.), chairman of the Commerce Committee, who opposes Nafta, was quick to condemn the action. "You can't have free trade when you don't have a free society," he said.

Televisa has come under heavy fire for providing paltry coverage of critical views of the Mexican government.

Jorge Castaneda, an academic and author who was among those who testified, called the episode "traditional authoritarian behavior by Televisa — the epitome of Mexican authoritarian rule."

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## Upcoming Mexican Election Seen as Travesty of Democracy

By Andrew Reding

WHEN the United States Congress prepares to vote on NAFTA, and influential members of the House and Senate voice concerns about democracy in Mexico, President Carlos Salinas de Gortari has produced electoral reform for the second time in his administration. On first inspection, many of the changes seem impressive: Limits will be set on campaign spending, voter identification cards will include photographs to help deter fraudulent balloting, and the Mexican Senate is being expanded to include more members of opposition parties.

Yet members of Congress should be concerned that the "reform" legislation is not all it appears to be, and that it sidesteps an Organization of American States (OAS) ruling, calling on the Mexican government to enact far more essential reforms. Two years ago the Inter-American Commission on Human Rights of the OAS found Mexico in violation of Article 23 of the American Convention on Human Rights, which requires the holding of "genuine" elections that guarantee the "free expression of the will of the voters."

Following a complaint filed by legislators of the opposition National Action Party (PAN), the commission informed Mexico that to comply with Article 23 it would have to enact two fundamental reforms: creation of "independent" and "impartial" electoral commissions and establishment of effective means of appealing fraud.

Neither condition is met by the latest reforms. As it stands, the Institutional Revolutionary Party (PRI), which has ruled Mexico for the past 64 years, will continue to dominate the federal electoral council.

The PRI has six seats (nine counting three satellite parties that depend on government subsidies) to a total of five for the opposition (PAN and PRD). Six additional councilors are nominated by the president. The government characterizes these as "independents" because they are subject to confirmation by a two-thirds vote of the Chamber of Deputies. With control of 63 percent of the lower house, the PRI can practically muster the two-thirds on its own. Should the requisite majority prove unattainable, councilors are selected by lot from the same list of presidential nominees. Hence the president prevails one way or the other, ensuring his partisans a greater than 2-to-1 majority on the council and complete control of the electoral bureaucracy.

To provide a semblance of due process, the reform expands the authority of the electoral tribunal, to which parties may appeal decisions of the council. The tribunal will now have two chambers. The lower will consist of magistrates chosen by the president in the same dangerous manner as the "independent" members of the electoral council. The new upper chamber, which will be the final court of appeals, will be composed of the chief magistrate of the lower chamber and four members of the judiciary. But since justices are appointed by the president with the rubber-stamp approval of the PRI-dominated Senate, it will only channel appeals to an even

more hostile forum where the opposition has no representation at all. As a further check on dissent, Article 172 of the new electoral law limits the independence of members of both the electoral council and electoral tribunal by making them subject to removal by the other members.

Monopoly control of elections unfortunately relativizes other reforms. Limits on campaign spending mean little when the only big spender is in effect accountable only to itself.

In the absence of more fundamental reforms, photo-ID cards become another instrument of deception. Random checks of the new voter rolls in Mexico City have revealed that more than 12 percent of registered voters have fictitious addresses. The cards also do not address new forms of electoral fraud, such as the selective purging of opposition voters from registration lists.

Far from seeking to democratize Mexico, the aim of the reforms is to reinforce one-party rule while securing enough seats for the opposition to provide a semblance of pluralism. With complete control over registration and vote counts, and unrestricted access to millions of dollars of government "solidarity" funds, the danger now is that the PRI will fare too well to be credible. That was the lesson learned two years ago, when the PRI claimed almost two-thirds of the seats in the Chamber of Deputies and all but three seats in the Senate. To guard against such overkill, the latest "reforms" limit the PRI to 315 of 500 seats in the lower house and 96 of 128 seats in the Senate. This, it is hoped, will allow Mexico to portray itself as a democracy, even as it preserves authoritarian rule.

By preparing to hold on to power in 1994 even if it means denying Mexicans their most basic political rights, the PRI risks plunging the country into turmoil over elections the opposition now insists are stacked. Following recent gubernatorial elections in Guaxaco, San Luis Potosi, and Michoacan, the president had to ask "elected" governors to step down after mass protests rendered the states ungovernable. If this scenario should repeat itself at the national level next year, there will be no such easy way out.

Just as disturbing is the Mexican government's continuing violation of OAS treaty obligations and the 1991 ruling of the Inter-American Commission. In January 1992, President Salinas amended the constitution to prohibit the national human rights commission from hearing cases involving infractions of political rights. The action reinforced the existing ban on judicial review of violations of political rights, which are not recognized as individual rights in the Mexican constitution. The present electoral reform deliberately sidesteps the OAS requirement of independent and impartial electoral authorities.

As the US Congress considers whether to approve NAFTA, it should inquire why the Mexican government is evading its legal obligations to its citizens and to the OAS.

Andrew Reding directs the North American Project of the World Policy Institute of The New School of Social Research in New York.

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P. 6

## HUMAN RIGHTS IN MEXICO

## US Human Rights Group Criticizes Mexico's Military

By David Clark Scott

and one of the authors of this report

MEXICO CITY

A UNITED STATES group that has worked with Mexico's official human rights commission is accusing the country's military of conducting arbitrary searches, detentions, interrogations, and torture of indigenous people. The Minnesota Advocates for Human Rights is also lambasting the blue-ribbon National Human Rights Commission (CNDR) for absolving the military of wrongdoing.

"The lawless practices of the Mexican military have become increasingly tolerated at the highest levels of Mexican government," says the Minnesota Advocates. But the CNDR's director disputes the group's findings.

The Minnesota human rights monitoring group has worked closely with Mexican human rights groups, including the CNDR, for several years. But this is the first time Minnesota Advocates has criticized the work of the CNDR.

Following the CNDR, the Minnesota group investigated incidents that occurred in October 1992 in the state of Chihuahua and in March, April, and May of this year in Chiapas state.

In Chihuahua, the Oct. 17 murder of an Army officer involved in an antidrug campaign triggered a military "rampage" against the indigenous Tepehuan residents. Homes and crops were burned, and residents were detained, interrogated, and beaten in the search for the killer. In late May, the Army responded to two "guerrilla" attacks on soldiers by searching several villages and detaining 10 civilians.

The CNDR admits some civilians were "physically mistreated," but a medical report (commissioned by the police) shows no signs of torture. Minnesota Advocates alleges the Tepehuans were forced to ingest water and suffered mock executions with unloaded weapons. They say these actions would not leave physical aftereffects.

The Minnesota human rights group charges the CNDR with failing to investigate allegations of torture in Chihuahua and Chiapas, and for excusing the Army of any human rights violations.

"The CNDR gives a green light to the Army to plan and facilitate large-scale detentions and searches among the civilian population as long as they are careful enough to bring along a few police officers," the report says.

CNDR director Jorge Madrazo calls such a claim "calumnious." Mr. Madrazo defends the CNDR actions, and said in a sharply worded Sept. 8 letter to Minnesota Advocates that there was "justification" for the Army's cooperation in the Chiapas search, but there wasn't sufficient evidence to bring any charges against the Army for human rights violations.

But Sara De'Assis, one of the report's authors, says, "There are new reports that the CNDR investigators were pressuring people to avoid implicating the military in wrongdoing."

Madrazo counters that the US group presents only one version of the events in Chiapas, whereas the CNDR sought and obtained all points of view before reaching a conclusion. He says Minnesota Advocates takes off on "unfounded and mistaken premises" and fails to understand Mexican law or the role of the CNDR. He seeks the group for sending a copy of the report to the media before sending one to the CNDR. (Minnesota Advocates says a funding shortfall caused distribution problems.)

Roselyn A. Camp, a Mexico expert at Tulane University, hasn't seen the CNDR reports or the one by Minnesota Advocates. But he notes public criticism of the military is taboo here. "In the Mex-



MEXICAN HONOUR GUARD: A critic says the signs of renewed involvement of the military in civilian affairs need attention.

ican government's historical relationship with [the] military, there's an informal rule that you never say anything bad about the military in public. The military says: We'll stay out of the political sphere if you stay out of ours."

Andrew Reding, director of the North American Project at the World Policy Institute in New York, argues that more attention must be given to the "troubling ... signs of renewed involvement of the military in civilian affairs." In a preface to the Minnesota Advocates report, financed by his organization, Mr. Reding notes the Salinas administration has increased its reliance on the military in the anticrime campaign due to corruption and abuses by federal police.

Sergio Aguayo, president of the Mexican Academy of Human Rights, agrees that "with the clear deterioration of confidence in the police, there's a tendency to rely on the Army."

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 JIIN 14 1993 P. A19

Andrew Reding

## Mexico: Corruption From the Top

When Mexican president Carlos Salinas took office four and a half years ago, he promised sweeping economic and political reforms. The government would promote free markets, clean up electoral fraud and corruption, fight drug trafficking and democratize the Institutional Revolutionary Party, which has run Mexico single-handedly for 64 years. Though Salinas has resurrected the economy, recent events highlight his failure to pursue meaningful political reform, a failure that is undermining economic reform and calls into question the rush to implement free trade.

The assassination of a Mexican cardinal, coming as it did amid reports drug traffickers are gearing up on the border in preparation for free trade, is but one of several warning signals. The Mexican government first claimed Cardinal Juan Posadas had driven into an exchange of gunfire between rival drug gangs, then revised the story, saying drug traffickers mistook the prelate for a rival kingpin. Even with a willful suspension of disbelief, one is left with the fact that a cardinal was gunned down in what should be one of the most secure locations in Mexico: the international airport in Guadalajara, second only in importance to Mexico City.

Yet reports from the scene suggest more than last winter. Eyewitnesses said the cardinal was shot from a distance of four feet and that federal police seemed to assist the killers in escaping. Eight of the assassins boarded an Aeromexico flight for Tijuana, yet authorities made no attempt either to turn the plane back or meet it on its arrival in Tijuana two hours later. Last week, seven law enforcement officials, two of them high-ranking, were arrested in connection with the cardinal's death. A few days later, a reputed drug lord, Joaquín Guzmán, also was captured in the case.

However disturbing the details, there is little reason for surprise. Cardinal Posadas was the only remaining authority figure in Guadalajara not perceived to be cooperating with the mob. Guadalajara, it should be remembered, is where U.S. DEA agent Enrique Camarena was tortured and murdered by police acting on behalf of drug traffickers eight years ago. In the ensuing trial in Los Angeles, witnesses named then-governor Enrique Álvarez del Castillo as one of several high-level government collaborators of the Guadalajara cartel.

Far from investigating the charges, President Salinas made Álvarez attorney general of Mexico. Even after a public outcry about human rights abuses forced Álvarez's removal, Salinas merely reassigned him to another hazardous federal post. Not only did this impede any serious investigation of the Camarena case and the Guadalajara cartel, it also underscored the extent to which Mexican officials are above the law.



*"Cardinal Posadas was the only remaining authority figure in Guadalajara not perceived to be cooperating with the mob."*

Even as Mexican troops staged "photo opportunities" of narcotics being burned, the president of Mexico was sending an entirely different message down the chain of command: that the worst sanction a high party official could face for corruption was transfer to another well-paid job; and with any luck the official might even be promoted, perhaps to overseeing the national police.

A further example of institutionalized impunity has surfaced with the scandal surrounding former transportation and communications minister Andrés Caso Lombardo. Last December, Caso's ministry handled

what were supposed to be competitive bids for a new air traffic control system. Yet when IBM representative Kevin Mousavv refused to pay a \$1 million bribe solicited by government officials, the contract went to a joint Italian-French venture. Though bribery (the infamous *meordades*) continues to be business as usual in Mexico, what was unusual in this case was that Mousavv spilled the story to the press.

Rather than use this as an opportunity to clean house, the Salinas administration responded with a cover-up. Newly-appointed Interior Minister Patricia Ruiz González held a joint press conference with Caso, in which the latter accused Mousavv of lying. Though Caso is untouchable in Mexico, he now faces charges of libel filed by Mousavv in the British courts. Knowing this case could not stand cross-examination, Caso has PRI cohorts are wrapping themselves in the Mexican flag to avoid answering the charges.

Far more serious than the particulars is the implicit message from Mexico's ostensible champion of reform. In February, President Salinas personally met with 29 of the country's most prosperous businessmen to ask them to contribute \$25 million apiece to the PRI. Since it is almost impossible to do business in Mexico without being on good terms with the government, the request was tantamount to extortion, and all participants anted up. Only after the affair was publicized abroad did the Salinas administration relent, reducing the contribution to a still-appreciable third of a million dollars per person.

That the beneficiaries of government policies, in this case the new owners of privatized companies, are being asked for kickbacks to the ruling party suggests how shallow Salinas's reforms have been. So does Salinas's removal of the crime of "illicit enrichment," which was instituted by his predecessor, from the proposed new federal penal code.

For lack of political reform, Mexico's economic reforms are being undermined by pervasive corruption, a corruption that is being seized upon by drug cartels to expand their penetration of Mexican officialdom and by unscrupulous businessmen to secure preferential treatment. In this context, the assassination of a cardinal and the attempts to extort kickbacks from IBM and domestic companies are wake-up calls to the dangers of opening our borders to free trade with a country whose government insists on maintaining a one-party rule at the cost of subverting the free markets and the rule of law.

*The writer directs the North American Project of the World Policy Institute at The New School for Social Research.*

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P. 18

## Mexico: Much Press, Little Real Freedom

By Richard Seid

WHAT does freedom of the press mean in Mexico? Neither the government nor the media moguls in Mexico want to talk about it. Neither understands or admits to understanding the necessity of a free press to the functioning of a democracy. As Mexico approaches full partnership in free trade with the United States and Canada, there is no real guarantee of the public's right to hear all sides of political issues, to make informed choices can be made as the press in Canada and the US may have fully discussed the ramifications of border and tariff changes, but the Mexican public has not.

In newspaper freedom of political expression has never existed in Mexico. For decades, there have been practically no openly dissenting political views. The Institutional Revolutionary Party (PRI), which has been in power since 1929, is more than just the "ruling" political party. It has been virtually synonymous with the government and without real political competition, how and why would freedom of the press become an issue at all?

Times are changing, but surely the financial crisis of the 1980s has the role of real political competition in some Mexican cases which fundamental to the very concept of political pluralism. It is credibly argued that the only election fraud kept the responsible left center from the Revolution Party (PRD) from winning the government.

Moreover, the failure of past elections had virtually no effect to

inform, which is controlled by the PRI. During its decades in power the PRI has secured almost complete control over the rest of the media as well. This is done mainly through payments. Sometimes the process is sophisticated, but more often the payments are blatant gifts or cash given to underpaid reporters and editors, with the complete acquiescence of their employers. There has been a slight improvement. As of last month, by presidential order, government payments to the media are to be accounted for. But there has been no effort to restructure them.

THE newspapers themselves are sponsored not only by advertising, but also by government-paid articles. There are more than 20 daily newspapers in Mexico City. What looks like a vigorous press is actually heavily dependent on government money. It is doubtful that more than a handful would survive under a freely competitive system without government contributions. That indebted to the government for their existence, many papers are readily disposed to print the party line. The reason the government keeps all these newspapers going is so that no paper will become dominant.

Until last year, the government held the monopoly on the newspaper supply. Paper supplies could be cut off to a nonperforming publication. The paper supply has been privatized, but now if a newspaper becomes too critical, they are subject to repeated financial audits.

La Jornada, a daily known for its independence as an outlet, had left-center newspaper under several multiple audits last year

and is partially buckled under by reducing its criticism. Consequently, it lost some of its best writers.

Worse than these pressures is self-censorship. Last November the only English-language daily, The News, climaxed a year of reporting for critical but accurate reporting. The owner of the paper, a staunch supporter of the PRI, was protecting his political friends. Fortunately, the firing was highly publicized. The Mexican government, trying to convince the US Congress of its commitment to a free press, was embarrassed, and it reduced its subsidy to the owner.

But self-censorship is most extreme in television journalism, from which nearly 90 percent of Mexicans get their news. The huge radio and TV conglomerate, Televisa (See box), which has an overwhelming audience share, is the worst offender. The bias in Mexican editing is especially notorious. Televisa's boss, Emilio Azcárraga, claims that since he is running a private enterprise, he can support whichever candidate he chooses. It just so happens, however, that Televisa favors any nominee of the governing PRI - to the extent that opposition candidates are rarely seen and never heard on any Televisa station.

For its complete loyalty to the PRI, the government allows Televisa to maintain and expand its vertical and horizontal hold on practically the entire Mexican entertainment industry. In addition, Televisa pays no Mexican taxes on its enormous income. In exchange for what would be owed, the government is given TV and radio time for "messages" which at times are indistinguishable

from political commercials. The government has never addressed Televisa's unfair business practices or its evident abuse of the public trust. There is an implied governmental position that it can not interfere in the conduct of private enterprise. Of course it does exactly this every day.

As the borders of Canada, the US, and Mexico become more porous, and as the policies and passions of free trade more tightly intermesh, the rights of all North American citizens should be equalized. Opposing abuses of freedom of expression is just as important as regulating businesses that contaminate the air

we breathe. Televisa is just one example. But by denying free speech to opposing political groups, it pollutes the air as much as any smogstack.

Most important is the promise from Mexican President Carlos Salinas de Gortari that his country is on the road to full democracy. Without the guarantee of the basic freedoms of speech and press that a democracy needs, Mexicans are hardly full partners in the politics and policies of the approaching years.

Richard Seid is an American lawyer who has lived in Mexico for the past 21 years.

### Televisa's Media Realm Keeps Growing

ELEVISIA, technically an independent company, is big and getting bigger. It is widely thought to be attempting to expand its Mexico City television channels and going national through existing affiliations with local channels within the states of the Mexican Republic. Televisa's radio station XEW is the oldest and most dominant in the country, and the cornerstone of its other extensive radio holdings.

In addition, Televisa controls the following: Tele卦, the equivalent of the United States TV Guide; approximately 100 other magazines; the newspaper Opciones; its own chain of theaters (which, of course, get free TV advertising unavailable to their competitors); 1,150 Videocentro video rental outlets (which are just now starting to face competition from the first 30 Blockbuster Video stores in the country); all the major dubbing facilities with the exception of Walt Disney studios; as well as night clubs and its own talent school and agency.

Televisa has reentered the US market by obtaining a minority interest in Univision, the Spanish-language network it had previously been forced to divest after losing a 1986 antitrust action. Although approved by the Federal Communications Commission, this recent purchase was hotly opposed by many Hispanics in the US who feel that Televisa's allegedly mediocre programming will appear to be imposed on American audiences.

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CHRISTIAN SCIENCE MONITOR

Thursday, January 14, 1993

*The choice of human rights reformer  
 is seen as signaling a new high-level  
 commitment to halting police abuses*

## New Attorney General Confronts Mexico's Past

By David Clark Scott

Staff Writer of The Christian Science Monitor

**T**HE watchdog has now become the one to be watched.

Human rights groups here and abroad are cheering about the unprecedented appointment last week of Mexico's human rights ombudsman Jorge Carpizo MacGregor to be the country's new attorney general.

"I'm plain excited about the appointment, given what Dr. Carpizo accomplished at the National Commission on Human Rights (CNDH)," says Ellen Lutz of Americas Watch, a Washington-based human rights organization.

"It's an historic political change of the utmost importance," says Maria Teresa Jardil, director of the human rights department of the Roman Catholic Archdiocese of Mexico.

Carpizo is now in charge of the agency accused — by the CNDH and others — of being one of the main human rights violators in Mexico. The attorney general oversees the 2,000-odd members of the federal judicial police, the frontline force against illegal narcotics which is notorious for torture, murder, arbitrary arrest, extortion, and other violations. Police officers who torture, Carpizo said as head of CNDH, "know that in most cases, even when they exceed themselves to the point of homicide, then won't be punished because their chiefs will defend or cover up for them."

The birth of the CNDH in 1990 was a response to the killing of human rights activist Norma Corona by federal judicial police. Shortly thereafter the police officer chiefly in charge of the drug fight was fired. And in May 1991, Ignacio Morales Lozoya took over the attorney general job with a mandate to clean house. Mr. Morales Lozoya fired officers, set up insight committees and took some steps to improve the situation, human rights activists say, but political ambitions kept him from persistently and effectively attacking the problem for fear of stepping on political toes.

The CNDH reports that torture has dropped from first to eighth place as a percentage of the total number of complaints of human rights violations it receives. But the total number of torture cases reported actually rose in the last half of 1992 compared to the previous six months.

One catalyst for Carpizo's appointment is believed to be a recent United Nations statement critical of Mexico's lack of progress in eliminating torture. A lawyer with strong academic background, Carpizo won praise for being hard working, principled and dogged in his pursuit of justice at the CNDH. Upon receiving the appointment as attorney general, he issued that brief warning: "Nothing is above the law. Nothing can oppose it."

On his first day in charge, Carpizo demanded the resignations of almost all top management,

telling them some would be asked to stay on after news coverage has been expressed that the wholesale firing of officials and agents would undermine the anti-drug war. But sources in the attorney general's offices say Jorge Carpizo Olea (now in charge of the effort) and his team will remain. "Carpizo Olea is a serious reformer, too," says Ms. Lutz at Americas Watch.

Carpizo is expected to announce his new management team today. Among the first tasks likely to be tackled are the 96 unfinished recommendations made by the CNDH to the attorney general's office. The CNDH has no power to enforce its findings. The recommendations typically are cases whereby the CNDH calls for an arrest, suspension, or investigation. One of the biggest problems facing the CNDH is foot dragging or lack of compliance by government entities.

"More than 50 percent of the recommendations made by CNDH to the attorney general over the last two and a half years were not satisfactorily resolved," notes the Rev. Miguel Concha, president of the Fray Francisco de Victoria Center for Human Rights in Mexico. "This indicates a need for profound change."

Another important task, Fr. Concha says, is clearing up the judicial system. More than half the apprehension orders issued in the last six months were not completed, according to CNDH figures. The orders need a judge's approval. "The judges, some of them, are corrupt and inept," he says.

Ending torture will likely be another priority. Police torture stops when they are told in no uncertain terms it will not be tolerated. It's not an untractable problem. Anyone who breaks ranks must be prosecuted," Lutz says. No federal judicial policeman has been convicted of torture.

"It will be important to see if the Mexican government will prosecute, and if [its officers are] found guilty, will compensate the families as required by the law," says Curt Goring, deputy director of Amnesty International in New York.

Mexican human rights activists are generally optimistic about the change. But Sergio Aguayo, president of the Mexican Academy of Human Rights, has given courses in human rights to police officers. And he has his doubts.

"I'm hopeful we'll finally see the judicial police under control, Mr. Aguayo says. "But their behavior is tied to the authoritarian system — a system which by its nature needs a blunt instrument — is the government willing to surrender its instrument of coercion? Can the police force be 'born again' ethically? I respect Carpizo but I have my doubts if one man can change this culture."

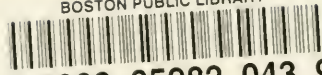
Some analysts also see the Carpizo appointment as a way to stave off criticism from a Democratic administration in the U.S. But Lutz says it is more than a "brilliant" political stroke.

"It would be simplistic to say [President Carlos Salinas de Gortari] is simply catering to the U.S. If he wants Mexico to have a modern government — and Salinas says he does — then modern governments respect human rights."

**Jorge Carpizo MacGregor, formerly Mexico's human rights ombudsman, now runs the agency accused by some of being one of the chief violators of human rights.**



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