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Public Security in Crisis

Center Prodh has witnessed with growing concern the alarming brutality of the Mexican police and military in operations designed to impose public security in the face of drug trafficking and organized crime, undocumented migration and social movements. The Merida Initiative, a recently proposed military and security aid package from the United States to Mexico, proposes further funding to Mexican authorities to bolster a public security policy that contains grave risks for human rights.

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and the struggle against NAFTA's agricultural chapter

In January 2008, tariff barriers on corn, beans, milk and sugar, main food products in the Mexican diet, were eliminated under the North American Free Trade Agreement (NAFTA). Opening of the market to competition from the United States and Canada for these products has widespread consequences for the future of Mexican farmers and poverty in Mexico.

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bring advances and setbacks in human rights in Mexico

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Citizens Shut-out of Democratic Participation: Governments Behind Closed Doors

The stage was set long ago for closed door negotiations on regional security cooperation necessary to maintain current visions of global economic development held by the heads of State and big business. Economic integration in the 1980's with the GATT and WTO, in the 1990's continued with regional and bilateral agreements including NAFTA, among others. In Mexico, economic deregulation from NAFTA was followed by a landslide of 23 free trade agreements signed between Mexico and other countries in just 14 years. Obstacles to civic participation throughout these processes have allowed such State agreements to flourish and continue to prove their ineffectiveness when it comes to elimination of poverty and redistribution wealth.

Distribution of wealth in the formal economy has not only failed to cross class lines, but has also failed to cross borders, as the rich remain rich and the poor are forced to cross borders to catch the occasional droplet from above in the "trickle down" economy that has shaped the reality of the last three decades. Unfortunately it seems that while the droplets will fall where they may, people are not free to roam to catch them. Therefore, through the

use of force, borders are becoming walls instead of desert landscapes, and poor people are being contained within their geographic, educational and class defined identities by military and police, guns and prisons. Current economic structures are measured as having failed in both process, which excludes democratic participation, and results, which indicate serious failures in meeting the needs of poor Mexicans and poor people around the world.

When economic policies are not working to bring a life of dignity free from the violence of hunger and poverty to almost half of the population of Mexico (according to the World Bank), both the domestic and regional response has been to stubbornly push for more of the same. Mexico and other States are strengthening failing economic policies, criminalizing the symptoms and social responses to these failed policies, and militarizing their implementation in the name of halting organized crime. It is worth noting that the US Government estimates that the Mexican and Colombian drug cartels could clear more than \$55 billion US dollars in profits in 2008, just one element of organized crime in Mexico, compared to Mexico's

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Public Security in Crisis: A Pattern of Violent Repression, Militarization, and Impunity

This month marks the second anniversary of the large-scale repression and torture by federal and state police of the inhabitants of the town of San Salvador Atenco on May 3 and 4, 2006. As of today, not a single police officer has been brought to justice for these serious crimes, including the police's systematic use of sexual torture, such as rape, against numerous women detained in the Atenco police operation (11 of whom Center Prodh is supporting in seeking justice).

The events of the past two years demonstrate that the brutal use of force seen in Atenco is only one example of a wider pattern – one whose toll in human lives and public safety continues to grow. Besides the brutality of federal police forces, the increased reliance on the military to carry out duties that legally correspond to the civil jurisdiction is of great concern. The murder of

four civilians by Mexican soldiers in the northern state of Sinaloa is a paradigmatic case that Center Prodh has recently documented. These and other human rights violations are at risk of multiplying if the currently proposed Merida Initiative is approved by the United States Congress, which would provide significant funding for security forces in Mexico without holding human rights as a central concern. If the Mexican government does not take decisive action to end the cycle of impunity for security forces and to reverse the current, counterproductive pattern of deploying extreme force as a response to social problems, Mexico's public security crisis will continue to fuel serious human rights violations.

Repression and criminalization of social protest: impunity for sexual torture in San Salvador Atenco

On May 3 and 4, 2006, in San Salvador Atenco, Mexico State, over 2,500 members of state and federal police to surround the town and suppressed a protest arising from the forced

relocation of a group of vendors' stalls. In the ensuing operation, police assaulted and detained indiscriminately both protesters and bystanders, killing two individuals and arbitrarily detaining more than 200 others, including 47 women. Many of the female detainees were systematically tortured by police through rape and beatings, all while blindfolded during their journey to a detention facility.

The sexual torture to which the police subjected these women constitutes one of the most grave human rights abuses under both international and national law, but Atenco is not an isolated case. It exemplifies the particular types of violations to which detained women are vulnerable in Mexico and the impunity that reigns in the vast majority of these cases. The case also illustrates the criminalization of social protest and protesters by the State. When the women of Atenco denounced having been raped, for instance, the Governor of Mexico State, Enrique Peña Nieto, publicly sought to discredit them by stating that members of 'radical groups' were trained to make false accusations of rape against police officers.

Despite the clear bias demonstrated by state authorities and their failure to punish the women's torturers, however, Mexico's federal Special Prosecutor for Crimes related to Violence against Women and Human Trafficking (FEVIMTRA) – the most appropriate authority to investigate and prosecute these crimes – has yet to take the case out of these state authorities' hands and charge the police involved with the crime of torture.

Militarization of the fight against organized crime: killings of civilians in Sinaloa and impunity under military jurisdiction

President Felipe Calderón's approach to reducing levels of organized crime in Mexico has relied from the start on militarized operations in which the Mexican army is deployed to carry out public security functions. As with



Photo: Enrique Carrasco, S.J.

previous militarized operations, the most recent examples of this approach to fighting crime are proof that this strategy leads quickly to serious violations of civilians' human rights.

In the northern state of Sinaloa, Center Prodh has recently documented the case of four civilians who were arbitrarily shot and killed by soldiers at a military checkpoint in the community of Santiago de Caballeros.

Edgar Geovany Araujo Alarcón, 25, Héctor Zenón Medina López, 28, Manuel Medina Araujo, 25 and Irineo Medina Díaz, 50, were driving to a party on the evening of March 26, 2008, when the soldiers opened fire on the vehicle, killing these four passengers and wounding two others.

Working in cooperation with the Sinaloan Civic Front, Center Prodh investigated the circumstances of the shooting and concluded, as did the Mexican government's National Human Rights Commission during its own investigation, that the victims were unarmed at the time of the shooting, and there was no indication that they were participating in criminal activities.

Despite the fact that it was a crime against civilians, the Secretary of Defense has assumed military



Women of Atenco protest outside the FEVIMTRA in February 2008/Center Prodh Archive / TG.

jurisdiction over the investigation and prosecution. History demonstrates, however, the military's lack of independence to investigate and prosecute its own soldiers for human rights abuses. International human rights bodies such as the Inter-American Commission on Human Rights have specifically called for an end to the use of military jurisdiction in such cases. Despite this, the use of military jurisdiction to investigate crimes committed by soldiers – including grave human rights abuses against civilians that should fall within civil jurisdiction – remains a common practice throughout Mexico. The Mexican government's ongoing disregard of calls to halt the use of military jurisdiction is especially concerning given that these killings in Sinaloa are not unique. The similar fatal shootings of five civilians at a checkpoint in the community of La Joya, Sinaloa, in June 2007 provides another example of grave human rights violations in the context of the militarization of public security. Three other states in Mexico – Tamaulipas, Chihuahua and Michoacán – have also seen shootings at military checkpoints since Calderón took power.

Moreover, this alarming rate of human rights violations is unaccompanied by any sustainable decrease in levels of violent crime. Indeed, available data shows that the number of killings related to organized crime has increased since Calderón took office. By deploying military forces untrained in policing to do the work of the civil police, the Mexican government is avoiding the essential task of improving the police and criminal justice systems so that these civil systems are able to investigate and prosecute offenders efficiently. In other words, the government seeks to compensate for the structural weaknesses in its system of public security by deploying the forces trained in national security. However, these two contexts are entirely distinct, with the former founded on the principles of investigating criminals and the latter based on the idea of territorial combat to defend the country against an enemy



army. In this confusion of roles, civilians continue to be caught in the crossfire and necessary improvements to the criminal justice system are given little attention.

The Merida Initiative: a dangerous precedent in foreign military aid from the United States

Despite the fact that the involvement of the military in public security tasks has led to numerous, serious violations of civilians' human rights, a proposed foreign aid package from the United States would provide the Mexican military with hundreds of millions of dollars' worth of equipment and support to be used in the fight against crime. The Merida Initiative, as the aid package is known, would provide Mexico with \$500 million in 2008 alone, with the majority of these funds dedicated to equipment and training for Mexican public security forces and the military. Aside from the fact that this method of influencing Mexican public security policy circumvents any democratic and legislative processes in Mexico, this aid package serves to reinforce from Washington the strategy of deploying extreme force in a territorial 'war' against criminals. The Merida Initiative, an aid package that maintains the policy perspective of the same players who brought us the Security and Prosperity Partnership of North America (SPP), is currently pending approval by the U.S. Congress.

Conclusion

Mexico faces a public security crisis of alarming proportions. In both its violent repression of social protest and its militarized response to crime, the government has shown a tendency to deploy extreme force in response to social problems, leading to high numbers of serious human rights violations without evident reductions in social discontent or crime rates.

Center Prodh continues to advocate for, and to call upon the international community to support, accountability for the abuses discussed above. In both the cases of Atenco and Sinaloa, the key to ending impunity is swift investigation and prosecution by the appropriate jurisdictional authorities: the federal Special Prosecutor in the case of the women tortured in Atenco and civil rather than military authorities in the case of the Sinaloa killings. The government must end violent repression of social protest and the participation of the military in police tasks, both of which result in grave human rights violations. Simply put, until the government stops confusing human security with State security, Mexicans will continue to live with serious threats to respect for their fundamental human rights.

The Mexican farmers' movement and the struggle against NAFTA's agricultural chapter

Introduction

During the process of negotiation of the North American Free Trade Agreement (NAFTA) in the early 1990s there was a sense of euphoria amongst political and economic circles: Mexico would join the "Developed World". Proponents of the agreement assured that everyone would win. Producers would be made more efficient, consumers would obtain cheaper products and the migration of Mexicans would diminish while the local economy would grow just as much as that of the United States.

Fourteen years after the signing of NAFTA, the outcomes of the agreement have been much less positive than hoped. Since NAFTA came into effect, Mexico has increasingly relied on imported products to provide its annual consumption of food. According to Chapter 7 of NAFTA, in January 2008 all tariffs on agricultural imports were scheduled to be eliminated. This means that all trade protection on vital staple products in the Mexican diet such as corn, beans, powdered milk and sugar

are no longer in force and implies a greater dependence on heavily subsidized products that arrive



The National Farmers' Confederation joins in march on January 31/ photo Center Prodh archive / MCP.

at a lower price from the US market. This new phase of NAFTA has potentially very serious consequences for the farmers of Mexico who have always relied on these traditional products as the backbone of their survival. Mexican farmers now risk losing out to cheaper, mass-produced products from the United States.

These negative consequences are added to the effects that NAFTA has already had on the agricultural sector of Mexico since 1994. Small and medium sized companies that used to produce for the national market have been destroyed. Workers remain unskilled and without technical qualifications, being employed in either large factories of foreign companies or crop plantations of transnational agricultural conglomerates. Two million farmers have been displaced as a result of NAFTA, some migrating from Southern states of Mexico such as Guerrero and Oaxaca to Northern states such as Sinaloa and Sonora to work as day laborers for large Mexican agricultural conglomerates and others migrating to the United States. This situation threatens to worsen now that corn, milk, beans and sugar have been deregulated and local farmers will be further pressured to find a wage working on someone else's land.

The Social Movement Against NAFTA's Agricultural Chapter and the Government's Response

On January 31, 2008, in an attempt to reverse the crisis of the agricultural sector, farmers, students, heads of houses, ecologists, workers from the Union of the State Electricity and Power company, members of the Mexican Network of Farming and Forest Organizations, indigenous people, office workers, girls and old women came together chanting "*Sin Maíz, No Hay País*" to denounce the struggles that had been caused by NAFTA and protest the agricultural chapter coming into effect in 2008. The movement brought people together from different walks of life, united in the demand that major changes be made to recover the farming sector of Mexico.

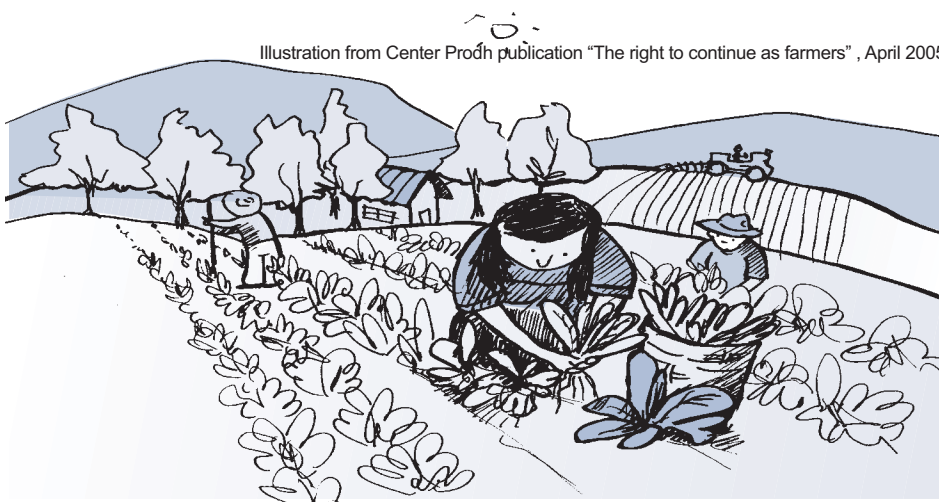
As a background to the current context, at the beginning of 2007, the "tortilla crisis" occurred, which raised the price of corn from 5 to 8.5 pesos. The crisis was due to the spike in demand for corn in the production of bio- fuels and the artificial scarcity of the product provoked by powerful producers of corn flour. As the heads of households that participated in the mobilization of January 31 argued, the tortilla crisis uncovered the truth of the growth in

inflation, which has increased the incidence of hunger in Mexico.

The farmers movement demands reforms in NAFTA. The Mexican government has stated that it would not seek such a reform. In addition, at the North American Summit held in New Orleans on April 21 and 22, 2008, heads of state of Canada, the United States and Mexico all affirmed that NAFTA would not be renegotiated. However, considering the effects that the treaty has had in Mexico, a reform that permits the guarantee of human rights is urgently needed. For all practical purposes there are no effective mechanisms in NAFTA that ensure that companies from the United States and Canada pay fair wages and provide just working conditions. In addition, on signing NAFTA, the needs of many of the most vulnerable sectors of the economy were ignored and public access to information was insufficient and continues to be so. Greater access to vital information and public participation is essential, above all for decisions that have serious consequences for the lives of people and communities. NAFTA has created many opportunities for more powerful interests and in this way has strengthened the concentration of power and wealth in the hands of few and the social polarization of rich and poor.

The effect of NAFTA on women's poverty

NAFTA has also deepened historical inequalities, such as women's land ownership which only amounts to 15 per cent of the land ownership in Mexico. If the Mexican economy continues to open itself up to allow for the increased reliance on biofuels and the use of genetically modified products continues, this will continue to affect the rural population and it will be even more difficult for women in rural communities to be recognized as farmers and entitled users of water and land. During the march on January 31, Columba Quintero, a retired staff member from the National Autonomous University of Mexico



(UNAM) and member of the Global Women's March, explained that the poverty provoked by NAFTA affects women more severely as women have traditionally been assigned with the distribution of resources in the home: "We don't have the capacity to feed our children, salaries are not increasing and as such we see that poverty is being even more feminized". NAFTA coincides with the increase of women's migration, as women search for stable incomes, often limiting them to domestic service work, caring for elderly, or sex work.

The Agricultural Crisis in the context of a global food-security crisis

The concern over the situation of Mexican farmers comes within the current context of a global food security crisis. One suggested way of solving this crisis has been through a "green revolution" based on chemically enhanced farming and the use of genetically modified crops to allow for production on a large and regulated scale. However, it is also argued that such development would place the management of food security in the hands of the same large corporate interests who have provoked the very same crisis that now is seen as a cause for serious concern.

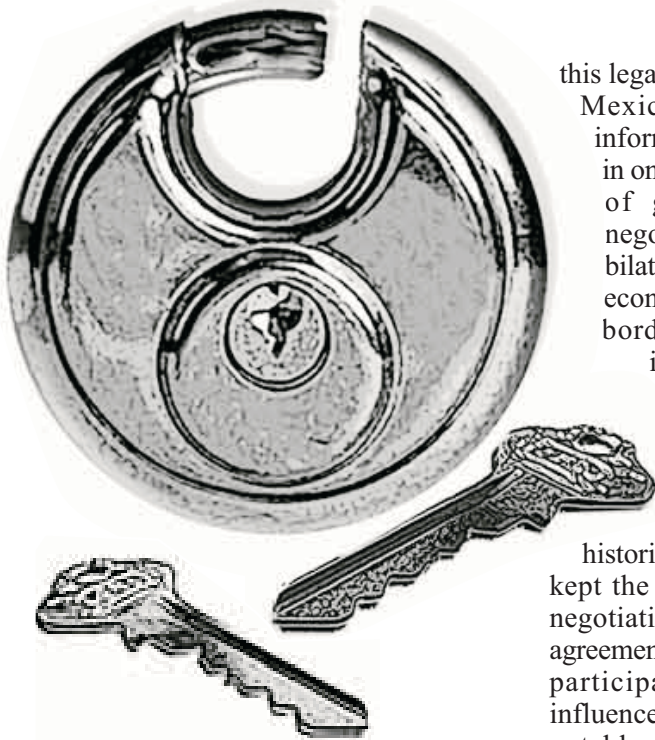
The food security crisis and the social movements associated with it allow for reflection on the human rights that form the basis of these protests. In the first place, the inflation of food prices leave people trapped between the right they have to feed themselves and the inability to afford food at its current

prices. Secondly, such protests are radicalized when there are no avenues for effective dialogue between the Mexican government and the population they should represent, and therefore a failure of democratic processes.

Conclusion

The recent farmers' movement to save small and medium producers in the rural economy of Mexico is a constituency block that needs to be taken into account now, particularly given the lack of consultation that has led to such demands. The government has an obligation to provide for the well being of the people. Center Prodh believes that policies are urgently needed that aim to overcome the persistent inequality in Mexico, reduce the dangerous rise in food prices and allow for the sustainable production of basic subsistence crops. Economic decision making processes need to be democratized, including those that concern the production and consumption of basic food staples. Such policy changes are urgently needed for the rights of the population to be guaranteed before the agendas of more powerful interests.

State secrecy undermines participatory democracy: *denial of the public's right to information* in economic integration



Mexico's Law on Transparency

Both the Mexican Constitution and federal legislation guarantee the public the right to access information held by the government. According to the 2002 Federal Law on Transparency and Access to Public Information, the public has a right to access all government information except in certain circumstances relating to confidentiality necessary for the public good, human safety, and certain other ends. The Law on Transparency also established the Federal Institute for Access to Public Information (IFAI), whose tasks include facilitating the public's access to information held by the Executive Branch. Individuals are able to request information or ask questions to government agencies by filling out a form available through the IFAI's website.

Despite this comparatively advanced level of the Mexican system, however,

this legal framework has not enabled Mexico's population to access information about and participate in one of the most important areas of government action: the negotiation of multinational and bilateral agreements in free trade, economic integration, and cross-border security plans. These international agreements can have an enormous (and devastating) impact on the daily lives of Mexico's citizens in both the short and long term, yet

historically the government has not kept the population informed of its negotiations on free trade and other agreements, or allowed for meaningful participation by civil society to influence these processes (including, notably, the signing of NAFTA in 1992). Investigation by Center Prodh confirms that even after the adoption of Mexico's federal Law on Transparency in 2002, the government continues to negotiate international agreements in secrecy, denying requests for information and thus preventing meaningful and participatory processes of public debate over these crucial deals. This and other results of our investigation will appear in our forthcoming report entitled *Participación Ciudadana Obstaculizada: El Derecho al Acceso a la Información y el Derecho a la Consulta en el contexto de la Integración Económica en México* (Barriers to Participatory Democracy: The Right to Information and the Right to be Consulted in the context of Economic Integration in Mexico).

The Security and Prosperity Partnership of North America

The Security and Prosperity Partnership of North America (SPP),

announced in 2005 is a trilateral agreement between the governments of Mexico, the United States, and Canada. The SPP contains two main sub-agreements, one concerning free trade and economic integration, and the other concerning trans-border crime-fighting strategies. Civil society groups have denounced the SPP as an agreement designed by and for multinational businesses rather than one that will benefit the populations of the countries involved. Because it is a 'partnership,' however, the SPP was not subject to legislative approval, and the contents of the negotiations between the three Executive Branches that led to its adoption were not made public.

In an attempt to shed some light on the processes of negotiation, throughout 2007 Center Prodh filed twenty-five requests for information on the ongoing developments in the negotiation and implementation of the SPP in numerous thematic areas listed within the text of the Security Partnership, directing these requests to various government agencies in charge of these processes or connected to the SPP. In general, these agencies replied that the information requested did not exist; that we should redirect our question to a different agency; or that we provide a more specific request, such as providing the exact name of the document that we were requesting (a detail that would be impossible to know given the secrecy surrounding the negotiations). For example, the Office of the President redirected us to the Secretary of Foreign Relations, who informed us that its archives contained no such information. In response to our request for documents prepared for a working group meeting on cooperation in renewable energy in early 2006, the Secretary of Energy

informed us that the requested documents had been classified for twelve years. In only two cases did we receive relevant information as a result of our requests, but in both cases the documents received had already been finalized and agreed upon in negotiations, leaving no room for civil society to use this information to influence decision making in those processes.

The Merida Initiative

The Merida Initiative is a proposed aid package under which the United States would channel \$950 million over the next two years into the public security sector in Mexico to support the country's fight against organized crime and terrorism (see the article in this issue entitled *Public Security in Crisis*). As an aid package under the control of the United States, the process of defining the contents of this Initiative has been opaque and without opportunities for participation from Mexican legislators or civil society.

Searching for any available data on the negotiations for the Merida Initiative, between November 2007 and January 2008 we asked the Secretary of Foreign Relations, the Secretary of the Interior, the Secretary of Defense, and the Secretary of Public Security for any documents related to the negotiations. The Secretary of Defense replied that it did not have any such documentation, while the Secretary of the Interior requested that we specify (presumably by name) which document we were requesting. The Secretary of Foreign Relations, on the other hand, informed us that the information was classified for a period of twelve years because its publication might affect the course of the negotiations as well as threaten "national security". These blanket classifications effectively close off any possibility for Mexico's citizens to participate in the decision-making process behind the negotiations or even to understand the Initiative itself.

Conclusion

The public's right to information about the workings of the government and the content of government programs, international treaties, and other crucial matters of public interest is necessary in order for true, participatory democracy to take root in Mexico. The right to information becomes all the more important in the context of economic integration, free trade, and other international agreements that affect citizens' daily lives. The current government pattern of denying requests for information, on the other hand, perpetuates the longstanding pattern of secrecy surrounding the negotiation of such agreements. It is time for the government to respect the spirit of the Law on Transparency in this context and to make possible the informed participation of the Mexican people in crucial decisions of their government.

Zihuatanejo Bay: Community halts unwanted development project but threats against them continue

Zihuatanejo Bay is located on the Pacific coast in the state of Guerrero in Mexico. More than 100,000 people live in and around this area and many of them work in tourism and the fishing industry. Both Zihuatanejo Bay and Salinas Lagoon, adjacent to the bay, suffer from severe contamination caused by the discharge of poorly treated water and sewage flows. These conditions persist despite the dangers posed to the thousands of marine species that call the area home.

For over 10 years a number of investors have sought to expand cruise ship access in Zihuatanejo Bay, ignoring the necessity for conservation of the marine species and the overall environmental impacts of such development. At the same time,

community organizations of environmentalists, human rights advocates, and fisherman of Zihuatanejo have created a resistance movement to defend the Bay and continue to demand that the authorities only authorize economic growth and

tourism projects when they are in harmony with the right to a healthy environment. Center Prodh has accompanied this community movement, supporting their efforts since 2005.



Zihuatanejo Bay: already altered by tourism/Center Prodh Archive / TG.

Community efforts to defend their rights

The coordinated work of civil society in Zihuatanejo has represented a community's effort to achieve its own vision of development in the face of tourism projects that have the potential to affect the ecological balance of the area. The proposed construction of a cruise boat marina, primarily promoted by corporate interests and later by the Municipality itself, would be incompatible with the biological and physical conditions of the bay. It would violate the human right to a healthy environment by further contaminating the waters of the Bay with the construction of the marina.

The Hague Declaration on Tourism of 1989 and the United Nations Rio Declaration of 1992, among others, outline a clear relationship between environmental damage and its effect on the exercise and enjoyment of human rights. In the case of Zihuatanejo Bay, in addition to environmental damage which has implications for the right to a healthy environment, civil rights such as the right to participation and information have also been violated.

The lack of transparency, public consultation, and accountability have been the main obstacles that community groups have confronted during their campaign. Actions by the authorities to provide for more

transparency came later in the process once significant opposition regarding transparency had been expressed by various groups, but the project was already rather advanced.

Civil participation results in cancellation of marina development

The fight from civil society organizations of Zihuatanejo Bay has included many actions over the years. There were unfruitful legal processes before various environmental authorities and the demands and consequent recommendations of the Latin American Water Tribunal, which were subsequently ignored by the authorities. Additionally there has been support from local press, protest marches, presentations of informative documentary films in local cinemas, among other participatory actions. Due to the organization of civil society and civilian actions, in March of 2008 the Federal Executive, represented by the Department of Communication and Transport, announced that the cruise boat marina project would be cancelled.

Although the official statement of the Department of Communications and Transport did not recognize the implicit environmental risk in the construction of the marina, its decision was made "considering the opinion and position of diverse sectors of civil society", and for this reason the project was to be cancelled (*Official Letter to civil society leaders, March 19, 2008*).

Despite success, civil society leaders subjected to threats

This outcome represents an example of community participation in a government decision making process that directly affects their natural resources. This community's success is even more impressive when placed in the context of private investment and the current regional economic



The water supply of Zihuatanejo Bay: at risk of further contamination/Center Prodh Archive / TG.

integration model, which often results in the government bowing to powerful business and development interests. While the official letter stating the termination of the project is a great success, the leaders of civil society identified as part of the movement to stop the construction of the cruise boat marina have been harassed and threatened since the decision, a clear indicator that the fight is not over.

In light of continued threats to defenders of the Bay, there is a need to further strengthen civil society actions to ensure that the construction of the cruise boat marina is not re-initiated in the future. It is also important to continue demanding that government decision making be transparent and accountable, in addition to taking into account the interests of the residents of the area.

Conclusion

The fight of the residents of Zihuatanejo Bay is not over, as both the Bay and the Salinas Lagoon, that make up the large majority of the aquiferous resources of the José Azueta municipality, are still contaminated. These problems are mainly due to the discharge of sewer water into the bay and the inadequate functioning of treatment plants in the area. It is also necessary for authorities to detect, close down and punish private individuals who secretly use drainage systems to pollute the water by offloading substances.



Hearings of the Latin American Water Tribunal in 2006/Center Prodh Archive / TG.

Center Prodh continues to accompany the community of Zihuatanejo in their struggle for a healthy environment and recognizes this recent success as an example of effective community empowerment in determining the future of development in the region.

Constitutional reforms in criminal justice bring advances and setbacks in human rights in Mexico

Background on the criminal justice reforms of 2008

Diverse actors in Mexico – among them criminal justice experts, academics, and human rights organizations – have long underscored the need for reforms to Mexico’s criminal justice system. The urgency of this need becomes clear when one considers that, according to at least one study (published in 2004 by researcher Guillermo Zepeda Lecuona), out of every 100 crimes committed in Mexico, only 25 are denounced to the authorities, and in just over 1 of those cases do the authorities charge anyone with a crime.

Those charged, on the other hand, face a flawed process in which they may be presumed guilty until proven innocent.

Despite general agreement on the need for reform, little to no consensus has existed on the contents of the reform. Some have advocated for a model centered on detainees’ rights, while others support an approach centered on providing more “tools” to law enforcement and prosecutors to combat organized crime. Unfortunately, the Calderón administration has taken the latter point of view as its basis for proposing reforms to the Constitution in the area of criminal justice.

In March of last year, Felipe Calderón presented his proposed Constitutional reform package with the explicit goal of increasing the efficiency of the fight against organized crime. His proposed reforms included, among others, the creation of a special set of reduced due process rights applicable to individuals alleged to be involved in organized crime; the inclusion in the Constitution of a form of preventive detention called

arraigo (discussed below); and allowing police to search private homes without a warrant.

Considering that several provisions in this reform package would violate basic due process rights, Center Prodh, together with the network of organizations “All Human Rights for All” and Lawyers for Justice and Human Rights, testified at a thematic hearing on this subject before the Inter-American Commission on Human Rights on October 12, 2007.

By March 2008, however, the Mexican Congress had passed Calderón’s reform package with only one substantial change: the final version approved by Congress did not include the provision that would have expanded the ability of the police to search houses without a warrant. Now all that remains for the reforms to become part of the Constitution is the approval of at least 16 state legislatures. (*At time of print at least 10 states had already approved the reforms*).

Advances

The recently-approved reforms include clear advances in some areas of due process and human rights, to be implemented gradually over the next 7 years. One example of these advances is the adoption of a system of oral, accusatory trials in place of the written, inquisitorial system. We consider this change essential, as it establishes that the parties shall present evidence before the judge in an environment of live debate, preserving the distinctions between the role of judge and prosecutor. The reforms also establish in the Constitution the right of defendants at trial to be presumed innocent, the right to remain

silent, and the right to an adequate defense. On this last point, the reforms require public defenders to be paid on an equal basis as are prosecutors.

These advances, which represent one step toward reducing the wide gap between the human rights obligations assumed by the Mexican government and its actual practices in the realm of criminal justice, owe their existence largely to the years of activism undertaken by Mexican human rights defenders in this area. With this in mind, and while acknowledging the positive potential of these changes, we now turn to the aspects of the reforms that represent clear setbacks for the human rights movement, and which will require renewed activism to reverse.

Setbacks

The final reform package approved by the Mexican Congress maintains some of the most alarming aspects of Calderón’s original proposals. Chief among these is the incorporation into the Constitution of a form of preventive detention called *arraigo*. Under the reforms, in cases of suspected organized crime (a broadly-defined category under Mexican law), police may detain an individual without charges for prolonged periods of time, up to 80 days, while they investigate him or her. In practice, *arraigo* lends itself to the use of torture to obtain confessions, has been criticized by several bodies of the United Nations human rights system, numerous human rights organizations, and was declared unconstitutional by Mexico’s Supreme Court.

annual budget of \$209.1 billion USD. This makes drug trafficking one of the top earning sectors in the national economy, and in fact, though it is typically framed as an issue of moral deviance, it is just plain economics that keeps organized crime up and running.

There are many solutions to untangling the problems created by current global economic development practices. We must be capable of more creative law and public policy making than to have to always rely on military or police alone. Other resources include academic proposals for new practices, non-violent problem solving techniques, and prioritizing the elimination of factors that make people most vulnerable to become both perpetrators and victims of organized crime, like poverty, health, and hunger. Social justice and human rights are intrinsic aspects of achieving human security. If law and policy-makers are not coming up with solutions, perhaps public participation in the process needs to be broadened. Governments should provide public access to information, listen to, rather than suppress, social protest, and invite civil society to a meaningful participation. Decision-makers should make civic participation economically accessible by supporting fair wages, tax breaks to civil society organizations, health care, education, and limiting the influence of big business interests.

In 1945, at the end of World War II, a few horrified and optimistic people came together to draft the declaration of the United Nations because they believed there had to be a better way to go about meeting the basic needs of all citizens of the globe than by going around killing each other with weapons of mass destruction like extreme poverty, bombs, guns, and genocide. They believed that if international development could be guided by some basic cross-cultural and universal principles that future catastrophes like World Wars could be avoided. What they did not foresee is that regional and internal wars would soon take the place of the colonizers' need for world wars. With the world already carved into imposed political boundaries, new wealth is not made by controlling States or territory, but by controlling both formal and black market economies on a global scale. States' armies no longer primarily defend territory but the flow of commodities that can be quantified as valuable in the global market such as toys, cars, people, drugs, clothes, electronics, petroleum, gold, information, etc.

As long as the place of real decision making is behind closed doors in the boardroom, war room, or in the offices of heads of States, actors from civil society, academics and citizens at large continue to lose ground in the struggle to have a significant voice in the policies that dictate their opportunities and daily reality. As a result, the alleviation of poverty as a whole sees little to no advances. Collusion amongst the few who make decisions for the many in Mexico maintains an impunity that is not new. After all, it is difficult to put people on trial for maintaining and compounding poverty, although it should be one of the most punishable organized crimes of all.

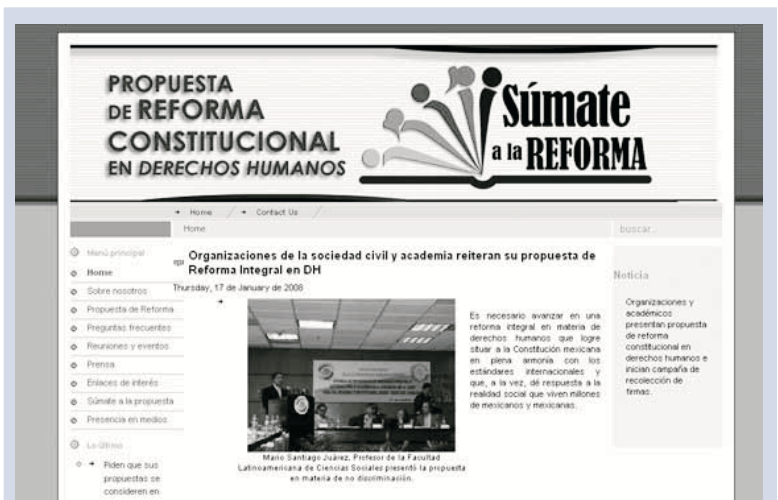
Another setback that bears emphasis is the creation of a separate system of criminal procedure to govern the detention of individuals investigated in connection with alleged organized crime. This separate regimen reduces the basic due process guarantees to which these individuals are entitled, with severe consequences for the protection of their human rights. In so doing, it directly contradicts the fundamental right to equality before the law.

In effect, the reforms promote a dangerous vision in which one group of individuals is entitled to the due process rights inherent in the new accusatory criminal justice system, including the presumption of innocence, while another group is entitled to fewer due process rights and a presumption of guilt (as the denial of their rights is justified by their alleged involvement in organized crime). In other words, the reforms create one set of rights for citizens and a lesser set of rights for perceived "enemies" of the State.

Indeed, this reform goes hand-in-hand with the broader trend in Mexican public security policy toward "frontal combat" against organized crime. In this climate, the government has followed and seeks to promote the idea that it is acceptable to violate individuals' human rights in the name of fighting organized crime.

This approach is all the more dangerous when one considers that the broad definition of "organized crime" in Mexican legislation has allowed governments in states such as Oaxaca to accuse members of social movements of being organized criminals as a means of justifying the prolonged arbitrary detention of social activists.

While we welcome the advances contained in the new reforms, we also recognize that the approval of this reform package signifies the need for focused monitoring by all sectors of society and advocacy to ensure not only that the positive aspects of these Constitutional reforms are implemented, but also to identify how best to confront and reverse the serious threats to human rights presented by the negative provisions highlighted above.



Mexican civil society organizations and academics created an alternative reform proposal in response to the Constitutional Reform package. Website: www.sumatealareformaendh.org.mx

News Briefs

International criticism focuses attention on Mexico's National Human Rights Commission

Human Rights Watch issued a report in February 2008 criticizing Mexico's National Human Rights Commission (CNDH) for failing to exercise its mandate fully or follow up regularly on its own recommendations. The report entitled *Mexico's National Human Rights Commission: A Critical Assessment*, finds that the CNDH has "routinely failed to press state institutions to remedy the abuses it has documented, to promote reforms needed to prevent those abuses, to challenge abusive laws, policies, and practices that contradict international human rights standards, to disclose and disseminate information it has collected on human rights problems, and to engage constructively with some key actors who are seeking to promote human rights progress in Mexico."

In a different study focused on national human rights institutions, Center Prodh recently facilitated a visit to Mexico by Harvard Law School's Human Rights Program. During the visit, the Executive Director of the program, James Cavallaro, met with government and civil society stakeholders to discuss the CNDH's work as part of a larger project that aims to produce a new tool for evaluating the efficacy of national human rights commissions, ombudsmen, and other such institutions in countries throughout the world.

Presentation of the case of women tortured in Atenco before the Inter-American Commission on Human Rights

On April 29, 2008, Luis Arriaga, Director of Center Prodh, accompanied by Barbara Italia, victim and petitioner, presented the petition on the events of May 3 and 4, 2006 in the town of San Salvador Atenco to the Inter-American Commission on Human Rights (IACHR) in Washington. The petition was co-submitted by the victims, Center Prodh and CEJIL (Center for Justice and International Law) and covers the cases of 11 women who were victims of the violent repression by municipal, state and federal police which involved physical, psychological and sexual torture, and arbitrary detention. While in Washington, Luis and Barbara presented the case to the annual members' conference of Amnesty International USA and spoke with members of the US Congress. Mexican law enforcement continues to enjoy impunity two years after the events, despite significant international condemnation (see article: *Public Security in Crisis*). This is the second occasion this year that Center Prodh has spoken at the US Congress regarding Mexican public security policies and practices that violate human rights.



Renata Rendon of Amnesty International USA with Barbara Italia

Center Prodh documents case of four civilians murdered by soldiers in Sinaloa

On Wednesday March 26, four civilians were murdered by members of the Mexican Army in the northern Mexican state of Sinaloa. Center Prodh, in conjunction with the Sinaloan Civic Front (Frente Civico Sinaloaense) are documenting the case. The events took place in the community of Santiago de Caballeros, municipality of Badigua, Sinaloa. Soldiers opened fire on a vehicle at a military check point, killing four passengers: Edgar Geovany Aruajo, 25, Héctor Zenón Medina López, 28, Manuel Medina Araujo, 25 and Irineo Medina Díaz, age 50, and wounding two others. The ambush was not justified by the soldiers and evidence confirms that the victims were not armed, nor participating in any illegal activities. The National Commission on Human Rights (CNDH) has now confirmed from their observations at the scene that the vehicle in which the civilians were traveling showed no signs that the victims had used fire arms against the soldiers. Based on these facts, the soldiers were responsible for the arbitrary deprivation of the lives of these civilians, a serious human rights violation constituting the crime of homicide. Center Prodh is concerned that the case being investigated and processed under military jurisdiction will not lead to justice for the victims, as evidenced by the impunity in nearly all other cases of crimes against civilians committed by the military in Mexico. The Department of Defense (SEDENA) must withdraw from the investigation and civil authorities, the Federal Attorney General (PGR) and the Attorney General of Sinaloa, should assume responsibility for the case immediately. This case illustrates a widespread pattern of misuse of military jurisdiction in Mexico used to investigate crimes committed by the military against civilians.

Glossary



Tortilla: Soft flat bread product made of corn and used as the base in many Mexican dishes.

Sin Maíz No Hay País: The English Translation is “Without Corn There is no Country”. Maize (corn) not only has economic importance in Mexico, but also has a significant cultural value. Maize has been part of spiritual traditions of both the Mayas and the Aztecs. Today, many indigenous beliefs and customs are tied to the growing and harvesting of the crop.

Biofuels: Biofuels represent a worldwide growth industry that depends on biological materials (usually plants) to produce solid, liquid or gas fuels. Corn is commonly used to produce a liquid fuel called ethanol, commonly used to fuel vehicles. Proponents have argued that the use of biofuels assists in combating the global energy crisis, while critics argue that biofuels have worsened an already urgent food crisis for the world's poor.

Please visit Center Prodh's english/spanish website for more recent updates on the situation of Human Rights in Mexico.

Center Prodh is a non-profit non-governmental organization that depends on the support of generous people like you. We appreciate all moral and in-kind support and are pleased to accept tax-deductible* financial donations.
**possibilities for tax deduction depend on your local tax laws*

Center Prodh was created in 1988 as an institution dedicated to the promotion and defence of human rights. It has four programs of work: integral defence, educational processes and monitoring and public policy; and three work areas: international relations, communication and organisational development. Center Prodh has consultative status with the United Nations Economic and Social Council and it also has the status of Accredited Organisation with the Organisation of American States.

Center Prodh works with groups throughout Mexico to consolidate human rights protection. Since its founding, it has given effective support and solidarity to groups and persons who have suffered injustice, poverty, and marginalisation.

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