

FOCUS



Centro de Derechos Humanos
Miguel Agustín Pro Juárez, A.C.

Human Rights in Mexico

Miguel Agustín Pro Juárez Human Rights Centre, AC

Bulletin, Issue 26, August 2006

In This Issue

1.- San Salvador Atenco: Rule of law, made to measure

A social protest carried out on May 3 and 4 2006, in San Salvador Atenco, *Estado de México*, was violently repressed by police departments who abused their power to use force. The authorities justified their actions on the basis of their duty to reinstall social peace regardless of the many serious human rights violations.

2

2.- The struggle for access to water and a clean and healthy environment in Mexico

The *Days in Defence of Water*, a simultaneous alternative to the IV World Water Forum, gave Mexicans the opportunity to share experiences and problems related to the right to water and a healthy environment with people from all over the world. Also, victims of human rights violations related to water issues in Mexico had the opportunity to seek justice from international bodies. But tensions still continue and the government has ignored the recommendations by international bodies to solve water conflicts.

6

3.- The sinking of FEMOSPP... and the opportunities to achieve justice before the end of the Fox administration

We are facing the uncertain future of FEMOSPP. After the leaking of a draft Historical Report in March the FEMOSPP has suffered several setbacks. The demands of truth and justice for victims have not been fulfilled. So far there has not been any clarity in terms of future alternatives for victims and other governmental bodies have continued their attitude of disregard for human rights standards.

10

4.- Human rights violations in Oaxaca: social unrest and governmental passivity

Oaxaca, in the South of Mexico, has been embroiled in a period of violence, unrest and demonstrations. It started with the mobilisation of teachers whose labour demands brought to the fore latent disaffection with the Oaxacan governor and his administration. Serious human rights violations have occurred already and because of apparent inaction by the local and federal governments, we believe that the situation will worsen unless the international community reacts quickly.

12

Newsbriefs

- 1 A contradiction: Mexico presiding at the new U.N. Human Rights Council
- 1 U.N. CESCR: The Mexican government had shortcomings on economic, social and cultural rights

15

Government Paralysis vs. Social Mobilisation

In the last few months, the Mexican government has been almost paralysed. As has been a tradition in past administrations, in the months before the federal election on July 2, a number of senior public officials quit their positions to join the presidential and gubernatorial campaigns of their preference or convenience. As a result, there has been intense staff turnover inside the government in the last months.

Another characteristic of this period has been the polarisation of Mexican society. Before, during and after the elections, the electoral issue has been on the minds of many people supporting each of the different candidates. The vote margin between the two frontrunners was the closest in Mexico's modern history: a third of the Mexican electorate voted for the right-wing National Action Party (PAN) (mostly in the North of the country, the area with the highest concentration of economic resources), and another third voted for the Coalition for the Welfare of All, led by the Party of the Democratic Revolution (PRD) (mostly in Mexico City and the South of the country, the poorest states). Currently, as there has not been a clear decision on who won the election as of this writing, the legal procedures that are processing the complaints filed by the Coalition, do not include a run-off round and seem to close opportunities for a full recount (a petition by the Coalition). This is not surprising as these are procedures and institutions created during the PRI regime, when such a close election was unthinkable.

On Election Day, there were contradictory reports by international electoral observation missions related to probable irregularities. The European Union observation mission affirmed not having witnessed any serious irregularities in the sites they were observing. On the other hand, Global Exchange, whose delegation was more modest than the European Union's yet placed in rural areas far away from other international observation points, did report serious violations of

the right to vote.

The tight federal election and the lack of transparency in the actions of the Federal Electoral Institute (IFE) have contributed to the lack of confidence and credibility in the results of the vote count, mostly among social sectors in a situation of vulnerability who have not felt represented in the current administration's policies. Other factors that contributed to distrust include the intensity of the electoral campaigns, the discrediting of the presidential candidates, the explicit support from powerful business organisations for the PAN candidate and the broadcasting of more videos involving corruption and fund embezzlement on electronic media.

In this context social mobilisations have developed throughout Mexico, some of them with international presence and explicit civil society demands for sectors in a situation of vulnerability, including the right to access to water and a clean environment, the right to employment, the right to freedom of free expression, as reflected in this issue of *Focus*. The government response to these demands has been uneven, ranging from institutional violence by government officials, like in the case of San Salvador Atenco, to government paralysis, like in the case of the recent events in Oaxaca, both resulting in serious violations of human rights.

We are awaiting the final and definitive election results, but whoever wins will be forced to govern an increasingly polarised country, with a Congress where no party has a majority, and with serious and pervasive structural deficiencies in the Judicial Branch. The situation appears complicated for the defence of human rights and it is hard to believe that the outgoing administration will fulfil its multiple pending commitments on this issue before completing its six-year term. Therefore the panorama for the development of our work looks difficult to say the least.

San Salvador Atenco:

Rule of law, made to measure

On May 3 and 4 2006, a violent repression was carried out in San Salvador Atenco, *Estado de Mexico* (neighbouring state of Mexico city) by different police departments, involving the municipality, the state government and the federal authorities. The police departments involved clashed with a group of farmers from the *Frente de los Pueblos en Defensa de la Tierra* (FPDT) (Peoples Front in Defense of the Land). The former used police brutality and carried out arbitrary detentions, unlawful entry onto private property resulting in its destruction, affecting not only members of the FPDT but also citizens that were not involved in the political conflict at all. Police officers arbitrarily detained 211 people as a result of the police operations. The majority of those detained were imprisoned in the Social Readaptation Center of Santiaguito (*Centro de Readaptación Social de Santiaguito* -CERESO). Most of the detainees were ill-treated and badly beaten. Two people were killed, 47 women and a man reported to have been abused sexually and raped. So far 7 women and 20 men remain imprisoned and 189 are standing trial.

In relation to sanctions of those responsible for the human rights violations, to date there have only been 21 low ranking police officers (out of approximately 3,500 involved in the police operations) that have been accused of abuse of authority and one for rape. No high ranking officer has been accused of such abuses so far.

Context of the conflict

The conflict between authorities in the State of Mexico and the population of San Salvador Atenco, made up primarily of farmers and traders, has a long history and was evident even before the clashes on May 3 and 4. Their most recent conflict was in 2001 when residents opposed an attempt by authorities to expropriate 5,000 hectares of their agricultural land for the construction of a new airport for nearby Mexico City. In response, residents organised the FPDT movement, which opposed the expropriation and the construction of the airport. At that time its leaders were formally charged with illegal detention, property damage, and simple theft. As a result of the movement's

activism, the government canceled the expropriation of land and the construction of the airport on August 1 2002. Later, in August 2003, different representatives of local and federal governments reached a political agreement with the leaders of the FPDT, in which the government agreed not to take any legal action against those that had participated in the movement's activities. The movement has continued its activism and recently, FPDT joined the 'alternative campaign' led by the *Zapatista National Liberation Army* (EZLN).

In April 2006, before the incidents of May 3 and 4, there were already two clashes between flower growers and sellers and the local authorities of Texcoco, a town near San Salvador Atenco. The flower growers opposed the forced relocation of 1,200 flower stalls from the market that had been ordered by municipal authorities (*La Jornada*, 4 May, 2006). On May 2, 48 local flower growers gathered at the office of the Attorney General of Texcoco municipality to protest. Eighteen flower sellers refused relocation and remained in the local market.



Destruction to private property in San Salvador Atenco during illegal police searches. Photo: Archive Centre Prodh/LM

The conflict in San Salvador Atenco

On the morning of May 3, approximately 500 hundred police officers from municipal and state security forces attempted to prevent the flower vendors from setting up stalls on the orders from municipal authorities backed by the *Estado de México* government. Responding to this, some members of the FPDT and civilians who were opposed to the governmental actions began challenging the security forces, initiating the first violent confrontation between the two sides. Ignacio Del Valle, a recognised leader of the movement, was detained and beaten during his detention and is currently imprisoned. Even worse, Javier Cortés Santiago, age 14, was killed by a firearm, under the circumstances described below.

As proof of their displeasure of these actions, another group of FPDT members retaliated by blocking the intersection that leads to Texcoco and the San Salvador Atenco-Texcoco federal highway on May 3. At the same time, they took as hostage, several police officers, in order to negotiate the release of their colleagues. Later in the same afternoon, there was another violent encounter when state police attempted to break up the protest on the federal highway. During this renewed episode of violence Alexis Benhumea, a 20-year old student, was hit with a tear gas bomb thrown by police officers and, as a result of the blow he died on June 7 (see below for details). Meanwhile TV cameras had caught on film the violent attack of a police officer by some protesters, and this was broadcasted repeatedly in the following days. Eventually, the police forces were forced to back down.

As the authorities were not willing to negotiate with the FPDT, they gave orders to the police forces to surround the town of San Salvador Atenco, from May 3 until 4. During the night of May 3 and into the morning of May 4, approximately 3,500 members of the (state and federal) security forces carried out a suppressive operation in which excessive force was indiscriminately used.

The police assaulted and detained as many people as they could and in such a discriminate way that the victims of their abuse included florists, members of the FPDT and other social movements from different parts of the country, foreigners that showed solidarity with the conflict as well as people who were completely unrelated to the political conflict.

Human rights violations registered during the conflict

a) Indiscriminate police brutality

Between 3-10 May, Centre Prodh and other non-governmental human rights organisations sent observation missions

In addition, Alexis Benhumea died as a consequence of the police brutality directed against the San Salvador Atenco populace. Alexis lost consciousness when his head was beaten by a *Policía Federal Preventiva* (Federal Preventive Police- PFP) officer who threw a tear gas bomb directly at him. His father had taken him to a property in the town of San Salvador Atenco and called for an ambulance. Despite Alexis' father's attempt to get immediate medical attention for his son, medical personnel were prevented from entering the town by the security forces that had surrounded the area. Prevented from receiving medical treatment, Alexis lapsed into a coma 10 hours after the attack and died on June 7.



Tear gas bombs found inside properties in San Salvador Atenco. Photo: Archive Centre Prodh/LM

to the town of San Salvador Atenco, the Santiaguito jail and local hospitals. During this period we documented human rights violations committed against residents of San Salvador Atenco, be they protesters or bystanders, as well, dozens were wounded and 211 people were arbitrarily detained. The majority of people detained were severely beaten, which reflects the excessive violence used by security forces against the civil population. Other violations included arbitrary detentions, illegal searches, theft, destruction of private property, attempts to harm the physical integrity of women, men and children, rape and sexual abuse (see below for further details) and the illegal deportation of five foreigners.

Another fatal casualty of the same police brutality is 14-year old Javier Cortés Santiago whose killing is described below.

Detainees were held incommunicado, and denied access to proper medical attention, or their family members and legal representatives during the initial period of detention. In addition, judicial authorities extended the length of time for which a detainee caught in the act of a crime could be legally held, from 48 to 96 hours, arguing that the acts carried out by the detainees allegedly were crimes that could be characterised as organised crime, classified as a serious crime. It should be noted that the court did not find sufficient evidence

of organised crime with which the Attorney General's office had sought to charge the detainees (for further details see Centre Prodh's report titled *Atenco: Estado de Derecho a la medida*, available on our webpage). On May 10, the court, charged with processing 189 detainees, issued incarceration orders for 172 people, of whom 144 were charged with attacking communication routes and 28 with kidnapping. 140 defendants could apply for bail and 28 could not because the crimes with which they are being charged are considered serious and thus they are ineligible for bail. This, in spite of the many violations to the right of due process documented by the Centre Prodh and other human rights groups. 17 people were released without charges in May.

Furthermore, the Centre Prodh were able to obtain video testimonies of three state police officers who participated in the police operation, who affirmed that they were ordered to "beat people up when there was no media around" (*pegarle a la gente cuando no hubiera medios de comunicaci n*). They also declared that on May 3, one of their colleagues shot Javier Cort s Santiago at close range when he uncovered the hiding place of this police officer. This contradicted the authorities' claim that the police officers were unarmed. The video was presented to the media to raise public awareness of this disturbing situation and our public denunciation was covered widely by the media.

Despite this strong evidence of abuses by police forces, the authorities ... asserted that they[had] 'simply applied the law', ...[but they] ... failed to show a serious commitment to investigate the alleged abuses impartially  (AI Index: AMR 41/025/2006, 12 May 2006). Even so, the authorities opted to discredit the video presented by Centre Prodh alleging that the claims were not credible and questioning the authenticity of the video.

Later, in May, the research teams of Amnesty International and a delegation of the International Civil Commission for Human Rights Observation (CCIODH) conducted their own observation missions in the same places and concurred with those put out by Centre Prodh. The CCIODH reported in its preliminary report that it considered  ...it proven that in the police operation of the 3 rd and 4 th of May there was an excessive use of public force in the performance of the police that goes against the principles of proportion, reason, and absolute necessity that should guide it. The international standards of human rights were not respected  (CCIODH, fourth visit, 29 May to 4 June, 2006, Preliminary Report on the events in Atenco, Mexico, June 2006).

The following testimony, taken from a document of testimonies given to Centre Prodh by the victims, exemplifies the type of human rights violations committed by police force agents in San Salvador Atenco.

  I was feeding my animals. That's when I saw about 30 riot police arriving, entered my house, filling the air with insults. And then they grabbed me, and several of them began to hit me... They took me to a field on the road to Chiconcuac and they continued beating me with their clubs, on the

head, the face, the chest, the testicles, everywhere, I don't even know how many there were, but they hit me with their clubs and they kicked me. Then they put me in a passenger van... they threw me against the floor and a police officer stepped on my head so that I couldn't move, I felt like he was dancing on the back of my neck. When we got to the jail, they kicked me again because they told me to walk but I couldn't move anymore .

Arnulfo Pacheco, 62

(Mr. Pacheco was accused and imprisoned for approximately 20 days even though he has suffered, for years, a degenerative neurological illness which impedes his movements and renders his participation in the events highly improbable).

Hence, the use of force by authorities did not uphold the principles of absolute need, reasonableness and proportionality as dictated by the U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

b) Violence against women during the police operations

In response to the situation involving the women, Center Prodh has documented the custody of 47 women who reported, along with other detainees, that they had been victims of physical and sexual abuse through molestations, insults, threats and, in multiple cases, rape by police. With only one reported case of male rape, we consider this type of sexual violence as discrimination against women owing that it was exerted specifically against women.

During the time of detention and the transfer to the Santiaguito penitentiary, the 47 women detained reported being victims of sexual, physical and/or verbal violence by police officers. 27 of them reported sexual aggressions including pinching and biting of the



Video-taped testimony of three state police officers

obtained by Centre Prodh.

Photo: Archive Centre Prodh/TG

vaginal and anal rape with fingers and other objects. The police also exercised sexual violence when verbally threatening to rape the detained women and using highly discriminatory and offensive language related to the women's sexual condition. Some of the women's clothes were violently removed and all of the women were forced to lift up their shirts in a way that covered their faces while exposing their chests and abdomen.

The transfer to the prison lasted nearly six hours, during which the women suffered miserable conditions of mistreatment and were completely defenseless against the police. It is worth clarifying that, under normal conditions, the travel time of the route from where the women were detained to the prison normally takes approximately two hours. All of the testimonies gathered coincide, affirming that the buses used to transport the women stopped various times en route to the jail. The next testimony is representative of the sort of abuse experienced by some women; other women were forced to have oral sex with police officers:

When I got into the van, I was stacked on top of other people that were laying on the floor and then some officers pulled me to the back seat. They pulled my pants down, tore off my underwear and drew my shirt up to my head. They slapped my buttocks really hard and threatened me with rape and death. The policeman that beat me yelled at me to call him ì vaqueroî (ì cowboyî), he hit me five or six times until he heard what he wanted. Immediately afterwards he penetrated my vagina with his fingers while continuing to hit and threaten me. He called over another police officer who hit me in the stomach so he could put his tongue in my mouth. This guy penetrated me, too, and said to another officer, ì Come try this bitch out!î All

three of them took turns pinching my nipples and groping my breasts really hard. After that they penetrated me with an object that I couldn't really identify, but it was cold and seemed to be made of metal. They forced me to travel naked with my head down in the seat and my buttocks upwards the entire time, all while beating my butt, legs and ribs.
ì Ana,î 27, student

Upon arriving at the prison, the women had to endure another round of abuse. They were forced to pass through lines of male police officers, who beat and groped them.

Current situation

The investigation on Javier Cortès Santiago's killing is ongoing at the state level. Alexis Benhumea's family is currently preparing a claim on homicide. Human rights groups and private lawyers are representing some of the victims. Those who cannot afford a private lawyer or whose cases were not taken up by human rights groups are using the public legal advice service, which is below expected standards.

Concerning the sexual abuse suffered by the women, the Center Prodh's legal defense team presented 14 legal claims before the Special Prosecutor's Office for Violent Crimes Against Women (federal level), denouncing the physical, sexual and psychological damage the women suffered as a result of the police operations that were carried out in San Salvador Atenco. In addition, as part of our defense strategy, we have presented an alternative thematic report before the Committee on the Elimination of Discrimination Against Women (CEDAW), in coordination with the Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM) and the World Organization Against Torture (OMCT) (available on our webpage), at its 36th session period on August 14, documenting these and other

abuses as a systemic practice of law enforcement bodies. This, from our point of view, represents a form of discrimination against women and also as torture, which is against the highest human rights standards and Mexico's own constitution. In this report we also lay out the impediments that the current legal system upholds which represent serious obstacles for women to achieve justice.

Conclusion

There is a systemic practice of police brutality in Mexico which affects specifically groups of people who are in situations of vulnerability.

The Centre Prodh, international human rights organisations and a large number of human rights NGOs, social movements and individuals have demanded a thorough investigation of the events in San Salvador Atenco, in order that those responsible for human rights violations are identified and sanctioned and those incarcerated political prisoners released. Additionally, we have insisted that it is essential that appropriate reparations be made, including the payment of legal and medical expenses.

Despite our best efforts, the different security bodies mentioned here continue to benefit from a state culture that confers impunity to its agents, rendering full justice for its victims a distant dream. Thus, international solidarity to aid our efforts is vital.

The struggle for access to water and a clean and healthy environment in Mexico



TLA panel during hearings carried out in Mexico City. Photo: Archive Centre Prodh/TG

Access to water and a clean and healthy environment in Mexico were important issues in the recent hearings of the Latin American Water Tribunal (Tribunal Latinoamericano del Agua, TLA) and during the Days in Defense of Water held in Mexico City from 13 to 22 March, 2006, organised by the Coalition of Mexican Organizations for the Right to Water (*Coalición de Organizaciones Mexicanas por el Derecho al Agua-COMDA*), and the Centre Prodh as part of it, and the National Assembly in Defense of Water and Land (*Asamblea Nacional en Defensa del Agua y de la Tierra*). These important events took place as a simultaneous alternative to the IV World Water Forum also held in Mexico City from March 16 to 22, sponsored by the Mexican government, worldwide private companies and UN affiliated bodies.

These alternative events brought forth lively and diverse discussions and debates on finding strategies focused on different solutions to the water conflicts and problems that have arisen nationally and internationally, on the access to and the control and

management of water as well as the causes and effects of water contamination.

The Latin American Water Tribunal

The TLA, an autonomous and independent international body on environmental law, offered an alternative medium for conflict resolution in Mexico, as in the case of the *La Parota* Dam and the contamination of the Zihuatanejo Bay lawsuits (see *Focus* issue 24, Autumn 2005 for details).

During its sessions, the TLA carried out hearings on 14 cases in different countries within the region: Chile, Panama, Ecuador, Bolivia, Brazil, Peru, Guatemala, El Salvador and Nicaragua. 6 of these cases pertained to Mexico which were the following:

1. The oil spill on Coatzacoalcos Beach and River, Veracruz;
2. The *La Parota* hydroelectric project; (see below);
3. Adverse environmental impacts on the water basins of Lerma, Chapala, Santiago and Pacifico in the State

of Mexico; Querétaro, Guanajuato, Aguascalientes, Durango, Michoacán, Jalisco, Nayarit and Zacatecas.

4. The transfer of water from the Cutzamala regional system to the Mexico City basin;
5. Industrial contamination in Atoyac and Xochiac Rivers, in the states of Tlaxcala and Puebla;
6. The contamination of and other adverse environmental effects on the coast and marina of the Bay of Zihuatanejo (see below for details).

Of the cases cited above, the Miguel Agustín Pro Juárez Human Rights Centre (Centre Prodh) has been involved in cases #2 and #6.

In all of the aforementioned cases, the parties that brought the charges were non-governmental organisations, local inhabitants, *ejidatarios*, *comuneros* (see glossary), indigenous communities and social movements. The charges were directed at all three levels of the government (federal, state and municipal levels). The charges singled out the Ministry of the Environment and Natural Resources (*Secretaría del*

Medio Ambiente y Recursos Naturales ñSEMARNAT); the National Water Commission (Comisi n Nacional del Agua -CNA), part of the SEMARNAT; the Federal Agrarian Procurator's Office (*Procuradur a Agraria* federal) and the Ministry of Health (*Secretar a de Salud*, SS). Charges were also brought against the Inter-American Development Bank (IDB) and both private and public companies (i.e. *Petroleos Mexicanos*, PEMEX).

In all instances, the TLA ruled against those who were charged, finding in its rulings grave negligence on the part of the authorities in fulfilling their responsibilities. Indeed, it was judged that the government entities had violated national legislation in failing to provide adequate and responsible oversight of the private businesses in its jurisdiction and in addition, the government entities were found to have been remiss in the management of environmental crises, ineffective in bringing forth resolutions to conflicts related to water and benefiting some communities at the expense of others in the management and allocation of resources. The TLA also criticised the government bodies for not exerting efforts to either acquaint themselves with the necessary know-how or seeking viable alternatives in ensuring that development projects do not adversely impact the environment, ecosystem and well-being of the local populace. Such irresponsibility on the part of the authorities contribute to human rights violations including the right to water; open and transparent access information; to consultation and participation, to free self-determination; to housing; health; sustainable development and territory.

The Days in Defense of Water

Multiple discussions, talks and consultations on the subject of water at various forums and conferences carried out during the Days in Defense of Water (which began on January 20 and intensified from March 14 to 22). These events had the overarching objective of increasing public awareness of the consequences of the

political policies of concessions of public services related to water when done in a no democratic way. They also sought to raise awareness on alternative solutions for the democratic administration of water that have been put in place in different communities and on the human rights violations which have occurred due to the current global policy on this vital liquid. Symposiums and mobilisations to demand the recognition of the right to water were attended by members of the general public as well as organised groups and associations.

One of the most important events was the rally held on March 16 that was attended by about 20 thousand people. This march was the first display of this magnitude in defense of the right to water that highlighted public concern for the proper management, protection and conservation of this natural resource. It was an unprecedented showing of accord by different societal sectors, both nationally and internationally, and revealed a heretofore little publicised problem experienced not just in this country but also in many other parts of the world.

Another significant highlight was the International Forum where organisations and civic movements in Mexico and other countries joined forces for an invigorating and lively debate on the theme of water as a human right. An important outcome of the International Forum was the constitution of a global civil movement based on the denunciations of conflicts on the water issue. For the Mexican organisations in particular, the forum accorded them the opportunity to share and discuss problems and solutions with like-minded people and, at the same time, to learn from the experiences of others.

The results of the official Water forum

In relation to the IV official Water Forum, it is important to consider the fact that most participant States opposed the incorporation of the recognition of the right to water as a

human right in the official declaration. Those States supporting this incorporation (Bolivia, Venezuela, Cuba and Uruguay) decided to present a complementary declaration. The European Union and Switzerland presented another declaration recognising the right to water and sanitation as essential, but unfortunately, they reiterated their commitment to Resolution 13 by the UN Commission on Sustainable Development, which supports the construction of sustainable hydroelectric dams on the basis of the international standards including those set by the World Commission on Dams and the World Bank.

The case of the Bay of Zihuatanejo before the TLA

The Centre Prodh and the Network of Non-Governmental Organisations of Zihuatanejo (*Red de Organizaciones no-gubernamentales de Zihuatanejo - ROGAZ*), together with local fishermen, boat drivers and small businesses, brought a contamination suit, i.e. of the Bay of Zihuatanejo, before the TLA (See *Focus*, Fall 2004 and Autumn 2005 for details). At its March 15 presentation to the TLA, representatives from Centre Prodh and ROGAZ brought forth evidence to show health and labour rights violations as the result of the excessively high levels of contamination in the bay. Various federal, state and municipal authorities were accused for these violations, such as the CNA, the Potable Water and Sanitation Commission of Zihuatanejo (*Comisi n de Agua Potable y Alcantarillado de Zihuatanejo -CAPAZ*), the SEMARNAT, Federal Environmental Protection Agency (*Procuradur a Federal de Protecci n al Ambiente - PROFEPA*) and a private company, Punta del Mar S.A. de C.V.

Although the various state bodies were petitioned, only the representatives from the municipal government, CAPAZ, attended the hearings on this case. These people publicly

acknowledged that the problem was provoked, in great measure, by the inefficient deployment of local water treatment plants that are managed by CAPAZ itself.

The Zihuatanejo case was resolved by the TLA on March 20, 2006, who recognised '...the careless negligence of SEMARNAT, CNA and PROFEPA in their lack of oversight and control over harmful activities that had the potential to degrade and destroy the natural environment in the Bay of Zihuatanejo'. It also recommended that the Zihuatanejo local government convene a civil society committee to work towards conflict mediation and resolution, which should include a master plan of policies and strategies in Bay management and protection. Furthermore, it urged CAPAZ to look into perfecting its charging mechanism to guarantee the financing of investment required to solve the problems of water treatment. Encouraged by the presence of the municipal authorities at the hearings which implied a willingness to cooperate, the TLA jury offered its assistance in working towards resolving the problems. It was concluded that a favourable outcome could be achieved if the authorities complied with the recommendations expressed at the verdict (TLA Verdict, 'Case: Contamination and Coastal Ill-Effects in the Bay of Zihuatanejo, Republic of Mexico, March 20, 2006', available on our website).

The construction of La Parota dam under international scrutiny

The case of the construction of a new hydroelectric dam, *La Parota*, in the southwestern state of Guerrero (see *Focus* Autumn 2005) was presented before the TLA and also before the UN Committee on Economic, Social and Cultural Rights, in March and May respectively.

As explained in past issues of *Focus*, the Mexican government, working through its Federal Electricity Commission (CFE), is supporting the construction of this dam, despite local opposition to the project. This opposition emerged because citizens have been denied, full access to information, consultation and citizen participation since the beginning of the project. As a consequence of the implementation of this project, approximately 17,000 hectares will be flooded and 25,000 people in 21 communities spread across five municipalities will be displaced. An additional 75,000 people will be indirectly affected. The economic interest of the federal and local government seem to have prevailed in this case because this project is linked to the mega project called the 'Puebla Panama Plan' (PPP), part of an economic integration process with Central America financed by the Inter-American Development Bank (IDB).

The TLA considered the case on March 17 and it determined that the construction of the dam would impact the quality of life and public health of those affected, putting them at greater risk of epidemics and water-based illnesses, thus violating national and international environmental and human rights standards. It recommended, among other things, to carry out an assessment to look at its impacts thoroughly, not only from the environmental perspective but also from the social perspective, and to install an inter-institutional and citizen commission to find a peaceful solution to the conflict (See Verdict TLA, 'Caso: Proyecto hidroeléctrico La Parota sobre el río Papagayo en el

estado de Guerrero', March 29, 2006, available at www.tragua.com).

Apart from the actions before the TLA, representatives of victims and a coalition of national and international NGOs, with the Centre Prodh among them, presented this case as part of our alternative report before the UN Committee on Economic, Social and Cultural Rights (CESCR) during its 36th session (from 1 to 19 May) in Geneva, Switzerland (see Newsbrief in this issue for further details). The CESCR focused heavily on the *La Parota* hydroelectric dam and the high economic, social, cultural and environmental costs of the project. The CESCR urged the Mexican State, among other things, to ensure proper consultation with indigenous and local communities with regard to *La Parota* and any other infrastructure projects. It insisted that the communities' previous, informed consent is essential to any decision-making related to rights recognised by the International Covenant on Economic, Cultural and Social Rights, in agreement with the International Labor Organisation's Convention No. 169 on Indigenous and Tribal Peoples. The State must recognise the rights of indigenous communities to own and control the lands they have occupied traditionally. The Committee urged the State to provide adequate compensation to affected indigenous communities and local farmers and/or to relocate them to fertile lands should the construction of *La Parota* continue (CESCR, 'Concluding Observations', E/C.12/CO/MEX/4, June 9, 2006).

Continuous tension in Guerrero

Social tension continues in the state of Guerrero in relation to the cases of the contamination of the Bay of Zihuatanejo and in the area of *La Parota*.

A series of intimidating acts have been carried out against ROGAZ's members. Amnesty International issued two Urgent Actions in this regard. Just



Luis Macías (Centre Prodh) during presentation of the Zihuatanejo case before the TLA.
Photo: Archive Centre Prodh/TG

before the TLA hearings took place, Erica Serrano and her family were intimidated at the end of February when a hand-grenade was left at the site of her family business. It is believed that this act was related to Erika's role as the legal representative of ROGAZ and her involvement in the case, together with the Centre Prodh, before the TLA. At the time, the public security authorities alleged that the hand-grenade had either been carried by a wave, because Erica's family business is relatively near the beach, or that it had been left as a warning (see AI, UA 48/06, March 3, 2006). Then, three months later, Noé Aguirre's father, received a threatening call at his family business, at the same time that a suspicious person was seen lurking around the shop. Noé has also been working actively in the denunciation of this case as part of ROGAZ (see AI, Further information of UA 48/06, June 6, 2006).

On April 4 2006, people opposing *La Parota* dam forcibly shut down, in protest, the system that provides drinking water to the city of Acapulco for a couple

of hours. At that time, they demanded talks with the representatives of the State Executive Branch at all three levels (municipal, state and federal), but, as it turned out, there was no dialog with representatives at the State and Federal levels. Interestingly, the Governor of the state of Guerrero, Zeferino Torreblanca, participated in a demonstration supporting the construction of *La Parota* on May 9.

As a result, the Council of *Ejidors* and Communities Opposed to *La Parota* (*Consejo de Ejidos y Comunidades Opositoras a La Parota-CECOP*) sent a letter on June 13, to President Fox requesting a meeting to discuss the recommendations by the CECR and the TLA, but there has been no response from the federal presidency to date. At the beginning of August, the Lower Federal Chamber reached an agreement requesting a dialog with those sectors of society affected from the Executive Branch, in order to find a solution to the problem (see *Camara de Diputados, Sesión 15 de la Comisión Permanente*, August 9, 2006). Coincidentally, on August 10, the UN Special Rapporteur on Indigenous People visited the *La Parota* region and demanded from the government, at all levels, respect for the will of thousands of farmers opposed to the construction of the dam (*Diario 21-Guerrero*, August

16, 2006).

Conclusions

Mexican citizens who were interested in issues related to water and/or the right to water had the opportunity to participate in the many events of the *Days in Defense of Water* and to share experiences with people from all over the world. Also, victims of human rights violations related to water issues in Mexico had the opportunity to seek justice from international bodies such as the TLA and the UN CECR.

Nevertheless, the Mexican authorities have not responded as expected. Intimidation against human rights defenders and a lack of interest to resolve the problems on the basis of the recommendations by international bodies have been present during this period. It is hoped that the authorities will respond to international pressure to solve these problems before the current administration leaves office.



Front cover of Centre Prodh's video
"Zihuatanejo in danger of extinction".
Photo: Archive Centre Prodh/ TG.



The sinking of FEMOSPP... and the opportunities to achieve justice before the end of the Fox administration

At different times, victims, relatives, organisations and collectives have denounced the deficiencies and limitations of the *Special Prosecutor's Office for the investigation of facts that are likely to have constituted crimes perpetrated by public servants against people linked to social and political movements of the past* (FEMOSPP). Currently, we are facing the uncertain future of FEMOSPP. After the leaking of a draft 'Historical Report' in March (see Newsbrief in *Focus* issue 25 for more details), its publication, originally scheduled for April, 2006, was postponed. Moreover, FEMOSPP has not only suffered several setbacks, from fighting counter-accusations from some of its defendants to facing an audit of its expenses and an internal labour dispute, but it has also faced the fact that four of its defendants were freed of charges as a result of the latest reforms to the Criminal Code (*Código Penal*). On the other hand, the judicial authorities have continued the trend of denying validity to the claims of genocide presented by FEMOSPP on the basis of insufficient evidence.

The leaked report: evidences of FEMOSPP's deficient investigation

With the leaking of the report, it became evident that there were insufficient security mechanisms to protect relevant information. It also was evident that the two work areas of FEMOSPP -the prosecuting areas (charged with investigating crimes) and the historical research area- had different approaches. This became clear with the fact that the leaked draft Historical Report identifies the Executive Branch and the National Army as the actors responsible for most of the repression, while, on the contrary, the prosecuting area has repeatedly exonerated the members of the military. Related to this, the prosecutor stated that 'the army

members who are mentioned in this report are not necessarily guilty'.

These contradictory positions are also reflected in the number of documented cases: the historical research area identified approximately six hundred forced disappearances, while in four years of work the prosecuting area only filed charges in 15 cases for 'abduction' (*privación ilegal de la libertad*). Also, the leaked report showed that the investigation has a great number of deficiencies, inaccuracies and incongruities, and a lack of methodological rigour as well.

Recently, the authorities of the Special Prosecutor's Office and the Executive Branch have declared that the work of the Special Prosecutor's Office will be considered complete with the release of the final report, originally scheduled for April 14, 2006. However, as of the writing of this paper, no report has been released. In a move that could be considered offensive, on April 17, FEMOSPP published a press insertion in the national newspapers where, instead of apologising for not releasing the report on the scheduled date, it attacked the journalist who published some pictures showing that Special

Prosecutor Carrillo Prieto had received the historical report in December 2005 without making public until it was leaked in March. This press insertion did not mention the delay in the release of the report (published in *La Jornada* on April 17, 2006). FEMOSPP has published other insertions 'refuting' articles published in a number of newspapers criticising its work.

From our perspective, the pretense of considering the work of the Special Prosecutor's Office complete with the release of the report is a diversion from the initial goal and constitutes a lack of respect for victims' and the Mexican society's right to know the truth regarding what happened during this repressive period. As pointed out by Amnesty International (AI), the impunity granted to the crimes committed in the past is considered a 'pending issue' for the Mexican government; for this reason it recommended the need to: 'Implement effective and credible mechanisms to put an end to impunity for human rights violations committed in the past. The failure of the ... Office of the Special Prosecutor for Past Social and Political Movements to produce results



Demonstration by the organisation 'Comité 68' outside the SCJN. Photo: Archive Centre Prodh/TG

demonstrates that impunity for systematic violations of human rights during the so-called 'dirty war' is still an unresolved issue AI, Human Rights, an unavoidable duty of candidates, AI Index AMR41/019/2006.

However, the lack of transparency in the selection of the staff in charge of drafting the historical report, the lack of external advisers to support work, the scarce resources available, the unwillingness of the prosecuting area to share information, the fact that there was no public presentation of the work plan, and the recurring problems in resource allocation, deprived the FEMOSPP's work of the necessary legitimacy and credibility within the society to undertake such a significant task.

Nevertheless, we acknowledge that this report is the first comprehensive vision on the period between 1962 and 1982 which documents, based on hard data and accurate information, some of the crimes against humanity committed by the Mexican State, pointing out in particular those crimes perpetrated by the military against the civil population.

Lately, there have been unconfirmed rumours of the closure of FEMOSPP. We agree with Human Rights Watch (HRW) when it affirms that the closure of the Special Prosecutor's Office '...would mean, essentially, consigning to failure the country's first serious effort to promote accountability for these atrocities. But, whether or not the office does close, Mexico's obligation to complete the work it began to end the years of impunity for these crimes will remain as pressing as ever.' (HRW, 'Mexico: Lost in Transition', May, 2006 p. 71).

More FEMOSPP setbacks

Currently, Special Prosecutor Carrillo Prieto and other FEMOSPP officials face an investigation for funds embezzlement, complaints for

unjustified dismissals from former employees of the Special Prosecutor's Office, and charges for undue exercise of public functions, blocking of justice and defamation, among others. This last complaint was filed on May 17 2006 by Miguel Nazar Haro, who is under house arrest with charges of being one of the perpetrators of the massacre of students in Tlatelolco, Mexico City on October 2 1968, and who was one of the heads of the Federal Security Department (*Dirección Federal de Seguridad-DFS*), the Mexican government intelligence agency. Nazar's claim is that Carrillo Prieto fabricated evidence to accuse him.

Furthermore, the main suspects for the abduction of Jesús Piedra Ybarra and Ignacio Salas Obregón (members of the 'Liga 23 de Septiembre' one of the urban guerrilla groups at that time) were freed of charges. The four suspects, among them Nazar Haro and Luis de la Barrera Moreno, the former director of the DFS (who was a fugitive from justice since November, 2003 and turned himself in to the authorities on June 30, 2006), benefited from a reform of the Criminal Code, on May 19, 2006, which eliminated the crime of violation of civil liberties (*violación de garantías constitucionales*). These people were initially accused by FEMOSPP for the abduction of the two disappeared men. However, the four suspects obtained a habeas corpus that changed the charges to violation of civil liberties (punishable with 1 month up to 3 years of prison and a fine to repair the damage inflicted to the victims), but this crime was repealed and, as a result, the trial was cancelled (*Reforma*, May 22, 2006). Two of the suspects were released; Nazar Haro will continue to be prosecuted in 4 other trials from his house. Luis de Barrera who has been already declared innocent of 9 charges filed by the FEMOSPP, is currently under house arrest, which was granted due to his alleged precarious health condition.

The Judicial Branch refuses to take cases

On April 25 2006, the Mexican Supreme Court (SCJN) denied the Federal District Government's (GDF) petition to be granted jurisdiction to investigate the June 10 1971 massacre of students, known as *El Halconazo* (from *Los Halcones*, the name of the government-formed paramilitary group in charge of suppressing the demonstration), involving the crime of 'genocide'. The Supreme Court ministers stated that the FEMOSPP had already carried out the due investigation and found no sufficient evidence that such a crime had been perpetrated (*Milenio*, April 25, 2006). Furthermore, they affirmed that the alleged crimes had already been prescribed. This attitude by the SCJN once again confirms the conservative viewpoints of its ministers and their lack of political will to shed light on this period.

Another person accused by the FEMOSPP who also enjoyed house arrest is former president Luis Echeverría Álvarez, charged with genocide perpetrated in the massacre of students in Tlatelolco in 1968. His arrest became big news on July 1 (the day before the presidential election), as it was the first time in Mexico's history that an ex-president was detained. However, in a new failure for the FEMOSPP and the Judicial Branch, on July 8, a federal judge decreed Echeverría's release stating that the charge against him had already been prescribed. Whether or not it was correct that the FEMOSPP charged the accused with 'genocide,' the resolution by a federal judge that a crime against humanity is prescribable again reiterated a posture of the Mexican judicial powers that does not adhere to international standards.

As a part of the defence strategy, the Centre Prodh and other organisations representing victims of crimes perpetrated in this period brought this issue to the UN to be considered in

the March session of the Human Rights Commission. In this opportunity, we expressed our concerns about the deficient action by the Mexican State.

Conclusions

The government investigation of the crimes committed during the so-called 'dirty war' has been deficient. We are at the end of the current administration and do not see positive prospects for justice for the victims. We considered it necessary to guarantee the continuation of the open investigations

and the ongoing trials. To this end, we think it is indispensable to have a specialised agency on the issue, with staff familiar with the circumstances surrounding these crimes against humanity perpetrated in the 60s, 70s and 80s, and with an adequate budget to fulfil its mission. Also, it is necessary for the different branches of government to respect the international standards applicable to these kinds of crimes.

Mechanisms designed to revert the current impunity for crimes committed

during the so-called 'dirty war' in Mexico must adhere to the *Basic Principles and Guidelines on the right of the victims of the violation of the international norms on human rights*, adopted by the General Assembly of the United Nations, recognising the right of the victims to have equal and effective access to justice, obtain adequate, effective and quick reparations for the suffered damage, and to have access to the pertinent information on the violation and reparations mechanisms.



Human rights violations in Oaxaca: social unrest and government inactions

Since the beginning of June 2006, the state of Oaxaca, in the south of Mexico, has been embroiled in violence, unrest and demonstrations. It started with the strike and mobilisation of about 40,000 teachers, of Section XXII of the Teachers' Union (*Sindicato Nacional de Trabajadores de la Educación-SNTE*) in Oaxaca, who began a sit-in occupation of Oaxaca City's central plaza on May 29, demanding better salaries. Increasingly however, the teachers' movement became a channel for more extensive social protests and political demands. It brought to the fore, a latent general disaffection with Oaxacan Governor, Ulises Ruiz, and his administration. Initially the government reacted aggressively, but as of late, its actions have been less visible. Nonetheless, the violence continues and we believe the government is no less involved now than it was at the beginning of the conflict, and serious human rights violations have been committed as a result.

Context

Beginning on December 1, 2004 with charges of fraud in his election to state office, Ruiz's tenure has been tainted by extensive corruption and vice within the governing state body. Local fiefdoms known as *caciques* are rife

throughout the state, a system that worked primarily to benefit and entrench the powers of local political and elite interests.

At the same time, there was a corresponding neglect and indifference to the development of the state and the needs of its populace, further exacerbated by actions of repression against civil dissidents. Indigenous communities have been attacked by police forces, leaders of civil organisations have been arbitrarily

detained and are often subjected to ill-treatment, and members of the press and journalists have been harassed and assaulted.

The state of Oaxaca has an active civil society and among the more active and influential are the teachers unions, who have declared strikes annually for 26 years to demand better salaries, better education infrastructure, better working conditions, etc. Proof of their influence is the march attended by thousands of people who supported the teachers'



Closure of National Forum organised by APPO in Oaxaca city in front of the current Governmental Palace. Photo: Archive Centre Prodh/IZ



Barricades put up by APPO in the centre of Oaxaca city. Legend reads: ¡Get Out Ulises Ruiz! . Photo: Archive Centre Prodh/IZ

demands on June 3 (*El Universal*, June 3, 2006).

The fairly peaceful sit-ins took a violent turn on June 14 when Ulises Ruiz sent security forces in to evict the protesters with tear gas and firearms abusing their power to use force. Amnesty International (AI) issued an urgent action then urging the government to respect the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials (AI, UA 169/06, June 14, 2006).

This repression of demonstrators resulted in social outrage, and as a consequence this movement grew after unions, some local NGOs, citizens, communities, local councils and neighborhood associations coalesced joining to create the People's Popular Assembly of Oaxaca (*Asamblea Popular del Pueblo de Oaxaca-APPO*) since June 20. The APPO has grown in support and has opted for different action to press for radical changes at the government level. It carried out a peaceful Forum on 16 and 17 August, observed by representatives of Centre Prodh, where APPO members came

up with a proposal for the reform of all governmental bodies and the local constitution, but their main demand has been the non-negotiable ultimatum of the removal of Governor Ulises Ruiz.

Increasingly, the protest actions by APPO members have been further radicalised. For example, they cut off the gasoline supply to the City of Oaxaca in June and have destroyed and damaged public buildings and vehicles; they have taken control of different radio stations and TV; have blocked motorways and road all over the state. In the meantime actions by the government have gone from repressive to an apparent passivity.

The turmoil and violence have escalated further but violence by State agents after June 14 has allegedly turned mostly to paramilitary techniques, when security forces and other unidentified armed individuals used force to break up the protests and pickets and arbitrarily detained leaders of the protest movement. They have also attacked the *Noticias* newspaper, that has been critical of the current administration in the state (see *Focus* Spring & Summer 2005 for further

information). The Centre Prodh has received information that give serious indications that these abuses have been committed by local militias who are reportedly backed by state security forces. Additionally, there have been other violent confrontations between security forces and APPO members. For example, on August 23, one APPO member was killed when police agents tried to recover control of a radio station and other people have been seriously injured or threatened with death (see International Alert available on our webpage).

The situation continues to be unstable with the latest incident of the desertion of the local police force. Blockades and all-night vigils have been set up by protesters after coming under fire from unidentified men in trucks believed to be linked to paramilitary forces. The city is effectively under siege. The Governor has been absent from public events and the APPO has tried to take control of governmental offices. Right now, the political situation is a governance crisis. Government officials have made worrying statements that make us believe that they may take hard-line actions to control protesters. For example the State Prosecutor's Office called the APPO an *urban guerrilla* (*El Universal*, August 29, 2006), though this was contradicted by the Federal Attorney General.

Reaction by Federal Government

The reaction by the federal government has been slow despite the seriousness of the situation. On August 14, representatives from the Ministry of the Interior travel to Oaxaca city as mediators in the conflict, but they were rejected by the APPO leadership. After this, the federal government was absent from the conflict and has also sent mixed messages. An example is that in light of the worsening situation, the President's office issued a statement on August 29 that Ruiz's potential resignation is part of the mediation talks between the Federal Government and the protest movement. However, when talks began between APPO and

SNTE with Carlos Abascal, the Federal Minister of the Interior, on August 31, as APPO had been requesting since mid-August, Abascal reiterated the Government's position that only the State Congress could remove Ruiz (*El Universal*, September 1, 2006). With the protesters' ultimatum and the government's position in direct conflict, the situation remains volatile and uncertain.

Current and potential human rights violations

As previously stated, human rights violations have been committed against the protesters by the state and duly documented by international and national human rights organisations. Such violations have run the gamut from beatings; ill-treatment including torture and the excessive and indiscriminate use of force; arbitrary detentions; short-circuiting of the right to due legal process; suppression of free assembly and speech; fabricated charges; verbal intimidation such as threats, and physical assaults including 'molotov cocktail attacks' against activists and supporters of dissidents to

the deliberate destruction of the transmission equipment of radio stations. We greatly fear the likelihood of an escalation in the level of violence and a corresponding succession of human rights violations. In particular, we fear the indiscriminate persecution of members of the dissident movement, especially those persons linked to APPO and Section XXII of the Teachers Union, for what began as legitimate protest activities. Because of these fears, the Centre Prodh has worked in coordination with local and national networks of human rights organisations to issue an international alert and to carry out an observation mission in the State.

At this stage, in spite of the intervention of the Federal Government and on-going mediation talks, we fear the increased militarisation and a larger police presence in the state and of serious risks of human rights abuses.

Conclusions

Although the catalyst for the demand for Ruiz's ouster is seen to have come from public anger at the police-

attempted removal of the sit-in in June, the underlying opposition and enmity to Ruiz's regime stem from a history of public disillusionment with his regime's corruption and cronyism. From our point of view, the current crisis in Oaxaca is the direct consequence of systemic weaknesses in the state governing infrastructure and the state's unwillingness to deal with its underlying problems in a legitimate manner.

On the one hand, the state government has demonstrated its incapacity to resolve civil protests peacefully and with reason. Instead of using state powers to instill law-and-order, it uses state apparatus, such as the police, to instill terror. It resorts, in the first instance, to forceful repression with the clear objectives of intimidating the population and overriding objections with whatever means necessary. On the other hand, the federal government has reacted slowly to this critical political crisis. The support of the international community right now is essential to pressure the Mexican State to solve this situation peacefully in order to avoid further human rights violations.



National Forum 'Building Governance in Oaxaca' on August 15 and 16, Oaxaca City, organised by APPO. Photo: Archive Centre Prodh/IZ

A contradiction: Mexico presiding at the new U.N. Human Rights Council

Mexico was unanimously voted to head the new United Nations Human Rights Council (HRC) this past May. The previous Commission on Human Rights was abolished as a result of measures from the UN's latest reforms and after years of criticism for making politically motivated decisions even as it disregarded the human rights records of its members.

Needless to say, Government officials were jubilant over the honour of the recognition. According to Luis Alfonso De Alba, the current Mexican president to the HRC, the new presidency is without a doubt, a triumph for Mexican foreign politics. Mexican Foreign Minister, Luis Ernesto Derbez Bautista, stated that this is a well-deserved recognition of the strides Mexico has been taking to promote the protection of human rights (*El Universal*, May 20, 2006).

But, although this leadership opportunity can be considered a success for Mexico's status in the international community, it does not automatically give rise to the full exercising of human rights at home for Mexicans. Centre Prodh, together with other national and international human rights organisations, has criticised Mexico's leadership as incongruous and a complete contradiction to the spirit of the HRC.

While the Mexican government prides itself in being able to protect its citizens, numerous human rights violations, including those exercised in San Salvador Atenco that, ironically, occurred a few days before this nomination, suggest otherwise. Derbez Bautista claimed that perpetrators of police brutality and other crimes that had taken place in Atenco would be held responsible. Contrary to this statement, however, is the farce with the incarceration orders that were recently issued against 21 police officers charged with abusing their authority in San Salvador Atenco (see the article on San Salvador Atenco in this issue of *Focus*). This crime was not serious enough to retain the officers in jail and meant that those charged were able to apply for bail and be freed. Therefore, from our point of view, it is hard to correlate the Mexican government's standing at the international level with its failure to fulfil its human rights commitments at home. As De Alba said, it is indeed a triumph for Mexican foreign politics, but perhaps not for the fulfillment of its human rights obligations.

We hope that situations like San Salvador Atenco will put the Mexican government under the scrutiny of other members of the HRC which may help us in our task of defending human rights at home.

U.N. CESCR: The Mexican government had shortcomings on economic, social and cultural rights

The Mexican government presented its IV Periodic Report before the UN Committee on Economic, Social and Cultural Rights (CESCR). The last time the government had presented a periodic report was in 1999. In order to counterbalance the government's report, 49 national and international organisations, including Centre Prodh, presented their Alternative Report titled 'Report of Civil Society Organizations on the situation of Economic, Social, Cultural and Environmental Rights in Mexico (1997-2006)', to the UN CESCR, during its 36th session in Geneva from 1-19 May 2006. Fifty-three other national and international human rights organisations adhered to the document. This report is used to highlight and counter inaccuracies and inconsistencies in the official IV Periodic Report created by the Mexican State and sent to the same committee.

As expected, the official Periodic Report was a self-congratulatory document, where the Mexican State spoke about its advances and commitment to assuring economic, social and cultural rights. To contrast this, our Alternative Report was critical of the government's policies on those rights in Mexico. We analysed the positive and negative aspects related to governmental policies and activities done to allegedly protect and guarantee the rights contained in the 15 first articles of the International Covenant on Economic, Social and Cultural Rights (ICESCR) (report available on our webpage in Spanish and English).

After considering both the official Periodic Report and the Alternative Reports presented by different civil society organisations, the CESCR issued its 'Concluding Observations on Mexico' that outlined some of the most serious threats to those rights in Mexico (E/C.12/CO/MEX/4). In addition to pointedly addressing the *La Parota* hydroelectric dam project (see article in this issue of *Focus* for further details), this document focuses on the status of rights affecting the poor, workers, women and children.

According to its document, the CESCR is concerned that poverty remains entrenched in Mexico, with 40 million poor people, or about 40 percent of the population; indigenous and marginalised groups are especially likely to live in poverty. Among other issues the Committee noted the uneven distribution of wealth between the north of the country, which is richer, and the south, and between urban areas and poorer rural areas.

The CESCR was particularly concerned about the status of workers in Mexico, noting that 40 percent of economically active people in Mexico work in the informal sector; the Committee encouraged the gradual regularisation of these workers. Low minimum wages and poor working conditions plague workers, especially indigenous and female workers. Often minimum wage laws are not enforced, a situation the Committee encourages the State to rectify. The CESCR detected that there also exist threats to the Federal Labour Law and the Federal Law for State Workers, such as those affecting workers' rights to form, join and register unions in the public sector. Unemployment subsidies only cover older workers. In relation to women's rights, the CESCR would like to see a federal law establishing gender equality, and noted that in 14 of 32 states there exist no laws criminalising sexual harassment. It commented that the high incidence of domestic violence against women and children is not being fully addressed by the Mexican State.

In conclusion, the current government has failed in delivering its commitments according to the ICESCR during this last period. The incoming government will have to catch up with these shortcomings and future ones, which surely will not be an easy task.

Glossary

CFE, *Comisi n Federal de Electricidad*, Federal Commission for Electricity, a governmental body in charge of providing the services of the generation, transmission and distribution of electricity.

Comunidad agraria, *Agrarian community*, a piece of collective property that was returned to indigenous communities who were expelled from them during the 18th and 19th centuries by owners of large estates. The individuals who own this sort of land are called a *comunero* or *copropietario*, meaning the person who is the owner of a portion of a common and indivisible piece of land. All decisions that affect this common land have to be made through the consultation with and agreement of all *comuneros*.

Ejido, a piece of collective land with a determined extension assigned to peasants by the State. This land was previously in the hands of owners of large estates (*latifundistas*) and subsequently it was expropriated and distributed to peasants. Members of the *ejido* are called *ejidatarios*.

FEMOSPP, *Special Prosecutor's Office to Provide Attention to Events that Probably Constitute Federal Crimes Committed Directly or Indirectly by Public Servants Against Individuals Connected to Social and Political Movements of the Past*. A prosecutor's office created and designated to investigate crimes that mostly occurred during the 'dirty war' period in Mexico.

PAN, *Partido Acci n Nacional*, National Action Party, centre-right party of President Fox.

PGR, *Procuradur a General de la Rep blica*, Federal Attorney General's Office, has federal jurisdiction for investigating crimes.

PRD, *Partido de la Revoluci n Democr tica*, Party of the Democratic Revolution, centre-left opposition party.

PRI, *Partido Revolucionario Institucional*, Revolutionary Institutional Party, which held power for 71 years until defeated in the July 2000 elections; the period of its rule is known as the *pri sta* government.

SEMARNAT, *Secretar a del Medio Ambiente y Recursos Naturales*, Ministry of the Environment and Natural Resources.

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. 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.

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.

For further information or to join PRODH's membership, please contact:

Miguel Agust n Pro Ju rez
Human Rights Centre

Serapio Rend n 57-B
Col. San Rafael, Mexico DF 06470
Tel: (5255) 5546 8217,

5566 7854, 5535 6892, Fax: ext 108

Email: prodh@centroprodh.org.mx

Web page: <http://www.centroprodh.org.mx>

Director: David Velasco

Contributors to this issue: Santiago Aguirre, Paula Del Cioppo, Cally Ingebritson, PC Leong, Luisa P rez, Vanessa Reilly.

Editor: Irasema Zavaleta

Designer: Tania Tamara G mez

FOCUS



Centro de Derechos Humanos
Miguel Agust n Pro Ju rez, A.C.

Human Rights in Mexico

Miguel Agust n Pro Ju rez Human Rights Centre, A.C.

Bulletin, Issue 25, 2006

Serapio Rend n 57-B Colonia San Rafael M xico, D.F. 06470 M xico