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Mexico: Crunch time for President Fox's commitment to combat "disappearances"

Mexico City -- The Mexican authorities are facing the crucial challenge to show that the steps taken to tackle the country's outstanding human rights concerns - including "disappearances" - can actually mark a clean break with a past of human rights violations and widespread impunity, Amnesty International said today, launching a report on past and current "disappearances" in Mexico.

"Hundreds of cases of 'disappearance' -- mainly dating back to the 'dirty war' on opposition activists in the '70s and '80s -- remain unresolved, despite the unfaltering determination of relatives, friends and campaigners to uncover the truth and obtain justice," the organization said.

"However, as evidence shows, 'disappearances' are not just a bitter legacy of the past: people continue to 'disappear' in a number of states across the country," Amnesty International continued.

In its report, Amnesty International highlights four cases of "disappearance" that have occurred since President Fox took office in December 2000, in the states of Chiapas, Colima and Guerrero. The organization stressed that the actual number of cases could well be much higher.

"A number of cases are just not reported due to lack of trust in the justice system or fear of reprisals, which makes it difficult to assess the real number of 'disappearances' taking place," Amnesty International said.

"These cases show disturbing similarities with past patterns of state reluctance to act openly and urgently to establish the fate of the 'disappeared', identify and bring to justice those responsible, and provide adequate compensation to the victims' families," Amnesty International added. "The only means of making a dent in this wall of impunity, remains, as ever, the courage and determination of relatives of victims to bring such cases to national and international attention. Sadly it is only this pressure that seems to make any difference to the authorities."

The recent opening of state archives on the 'dirty war' is a positive and overdue step to shed some light on the fate of hundreds of the "disappeared", and follows a series of other potentially important measures including: the appointment of a Special Prosecutor to investigate "disappearances"; the partial criminalization of "disappearance" in the Federal Penal Code; the National Commission on Human Rights' report on political "disappearances" from the '70s and '80s; and the ratification of the Inter American Convention on Enforced Disappearance of Persons.

"The Mexican authorities have argued nationally and internationally that these measures demonstrate a new start for human rights in Mexico," Amnesty International said. "However, these initiatives in themselves do not constitute the end of impunity, nor provide justice for the victims and their relatives. Too many times in the past reforms supposedly intended to end impunity, have in fact ended up further entrenching it".

"The rhetoric of human rights is easy to adopt, but turning these principles into practice and positive change is what counts, and this requires the political will to see changes through at every level of the state and in every corner of the country," Amnesty International emphasised.

Amnesty International is concerned that some of the steps taken by the authorities appear to be flawed from the start. For example, while Mexico ratified the Inter American convention on Disappearance, it lodged a reservation allowing for cases to be tried in military courts. This runs counter to the spirit of the convention and to the recommendations of international human rights bodies to the effect that serious human rights violations -- including "disappearances" -- cannot be considered acts of service and should be handled by civilian courts.

Moreover, the scope of the Convention is severely undermined by an interpretative declaration also lodged by Mexico to the effect that it will only be applicable to cases of "disappearance" which occurred after its entry into force.

"Forced disappearance is recognized in international law as a continuing crime, which is not resolved until the fate and whereabouts of the victim have been established," Amnesty International stressed.

"To limit the applicability of the Convention means denying relatives of hundreds of Mexican 'disappeared' their fundamental rights to truth, justice and reparation, and subjecting them to the continuous torture of not knowing what happened to their loved ones," the organization continued. "The ratification of the Convention with this reservation and interpretative declaration casts serious doubts on the real commitment of this government to end impunity."

As for the Special Prosecutor's Office, Amnesty International observed that it will be possible to judge it only on the basis of its ability to produce concrete results that meet international standards and to earn the confidence of the victims' relatives. Until this is proved, serious doubts will remain as to the real independence of the Office, the quality of its investigations and the transparency of its decisions.

Amnesty International's report sets out a series of concrete recommendations to the Mexican authorities. These include:

- introducing legislation to make "disappearance" perpetrated by all state agents -- whether federal, state or municipal -- or those acting on their behalf, a criminal offence, punishable by sanctions commensurate with the gravity of the crime, in line with international standards;
- initiating prompt and thorough investigations into new cases, including the apparent complicity of the authorities in covering up these crimes, to bring to justice those responsible and ensure relatives of victims receive adequate reparations;
- investigating and prosecuting through the civilian justice system any state agent implicated in "disappearances" no matter how much time has elapsed since the commission of the crime;
- conducting a review of all police and military practices of arbitrary detention which currently encourage "disappearance".

"Only when government commitments to end impunity and 'disappearances' result in truth and justice for the victims and their relatives, and when the practice of this gross violation of human rights by the police and security forces is ended, will the government have fulfilled its commitments. Until then Amnesty International and others will continue to document cases and call on the authorities to meet their obligations," the organization concluded.

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