
Amnesty International

Mexico

Open letter to Mexican political parties



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To all political parties,

Mexico is at a crossroads. The democratic transition is about to enter a new phase with the 2006 elections. The elections are a major focus in the country's political life, but the issue of respect for human rights, which is central to the democratic aspirations of all citizens, is absent from political debate. Political leaders must move from rhetoric to concrete action if Mexico is to experience a new era of human rights.

In the months to come, the political programmes of all the parties will be set out and debated and finally, the electorate will decide. Mexico plays a vital regional and international role in supporting the protection of human rights in an extremely difficult environment. It is fundamentally important that it continues to do so, and that the Mexican people and their communities receive tangible benefits from these policies.

One of the main challenges will be to ensure that Mexico's prominent role in promoting human rights, nationally and internationally, will be reflected in a substantial improvement to the protection and enjoyment of these rights throughout the country.

There is no doubt that the protection and promotion of human rights in Mexico continues to be a fundamentally important issue for all citizens. The country has witnessed many changes in the last ten years. The current government's 'open doors' policy with regard to organizations like our own has facilitated Amnesty International's work and allowed the country to receive an unprecedented degree of cooperation from the international community. Civil society has grown and the demand for transparency and accountability of government and state institutions, at the federal, state and municipal levels, has begun to bear fruit. But that is not enough: the time has arrived for respect for fundamental rights and human dignity to become a reality for all Mexicans. The challenge is to convert promises about human rights into something tangible, that will benefit all. The political parties owe this to civil society.

There has been progress, but many more substantial steps are necessary. Deficiencies in the justice and security systems continue to encourage arbitrary detention, torture and trials without guarantees, and generate a high level of corruption and impunity. Many sectors of the population continue to have limited access to justice. Indigenous peoples, women and migrants are victims of discrimination and violence. Many communities, both urban and rural, continue to live in extreme poverty and marginalization, with very precarious access to basic rights such as housing, education, sanitation and water. Those who try to bring this situation to the attention of the public or who campaign for these rights to be respected still suffer intimidation, threats and detention. There is continued impunity for those responsible for the systematic violation of human rights during Mexico's

"dirty war". These are just some of the many questions that need to be raised throughout the length and breadth of the country.

The issue of crime in Mexican society and the measures required to fight it dominate the political and social agenda. Too often, respect for human rights is seen as an obstacle to the prevention and punishment of crime. This weakens respect for fundamental human rights in the name of security. Mexico's own experience demonstrates how false this proposition is. The continuous increase in police and judicial powers to fight crime, during a period that goes back more than ten years, has not only failed to achieve positive results, but has also exacerbated the violation of human rights. It is a demonstrable fact that abuses such as arbitrary detention, torture and other violations of due process will not cease without the rigorous application of guarantees that really protect fundamental rights for all, such as the presumption of innocence, and neither will the state security departments or justice system become more effective without such a step.

The transition in Mexico has also witnessed the growing influence and independence of the different institutions of the state, such as the Federal Congress and the state governments at the local level. The balance of power in a federal and democratic system of government, such as Mexico's, is essential, but it is also essential that these authorities are accountable and comply with the international obligations contracted by Mexico in the field of human rights. At the federal level, the executive power has not been determined enough. Congress has dragged its feet for party political gains, and the judiciary has failed to recognize international human rights standards in its decisions. All too often, legal and constitutional arguments have been used to justify and maintain impunity and inaction rather than to ensure accountability, such as in the case of the disappeared and assassinated women of Ciudad Juárez y Chihuahua. All state institutions should aim to overcome these obstacles and the political parties should address them urgently.

An example of the challenges faced by the present government is its inability to agree on urgent reforms that were due to be made to the Constitution and the justice system. In 2004, Amnesty International sent a memo to members of the Federal Congress, in which it highlighted the need to strengthen the government's proposals for reform, but the organization has received no reply. As far as we know, there has been no significant progress with legislation in this area, and neither has a commitment been made to civil society and other actors to agree the foundations of these very necessary reforms. One of the great challenges facing Mexico is to carry out a complete review of its justice and security system, with a view to protecting human rights, increasing the effectiveness of the system and guaranteeing access to justice for all.

The diagnosis of the human rights situation conducted under the auspices of the United Nations High Commission for Human Rights, in 2003, provided a valuable and comprehensive analysis and a series of recommendations. The government's National Human Rights Programme is a starting point in this process, as it incorporates some of these proposals. However, it is clear that the next government must take on the task of applying and implementing the fundamental aspects of the concrete actions recommended by the UN Diagnostic.

To this end, Amnesty International calls on the political parties and their candidates to indicate their commitment to human rights and set out how they propose to deal with the following issues:

International human rights programme

Mexico has played a very positive role at moments of international crisis in the protection of human rights and security. The government has worked in a constructive way, with intergovernmental organizations, international NGOs and other governments to try to keep the protection of human rights at the centre of security initiatives. It is vital that this policy is consolidated and strengthened in the next six-year period, and supported by all political parties.

Constitutional reforms

Ratification of some key international instruments, such as the Statute of Rome, the Optional Protocol of the Convention against Torture, and the measures taken to abolish the death penalty, show that progress is possible. Constitutional reform should be undertaken to ensure that they are not only paper promises, but that the obligations acquired by Mexico, by virtue of international treaties, are effectively incorporated into national law and that these rights, and the protection they offer, are extended to cover all Mexicans. For the same reason, it is vital to eliminate the reservations and interpretations presented by the Mexican government with regard to key international treaties, such as the Inter-American Convention on Forced Disappearance of Persons and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.

Security and judicial reform

As set out in the Memorandum¹ to Congress, in 2004, Mexico's policing and criminal justice systems should be fundamentally reformed to ensure both security for citizens and respect for human rights. To address the fundamental causes of the security crisis, it is not enough to increase the powers of the security forces and increase penalties. Reconstruction of the credibility of justice and security agencies will only be possible if they improve their technical capacity to protect fundamental rights and if they act with responsibility and transparency towards the society they serve.

Subordination of the police, general prosecutors and the judiciary to political interests should be replaced by the professional and impartial observance of the fundamental principles of justice, as set out in the International Covenant on Civil and Political Rights and the American Convention on Human Rights, as well as the Constitution of the United States of Mexico, thereby ensuring complete and equal access to justice for all.

It is also important to define prudently the security functions carried out by the military, given that the army is not trained for police or judicial functions and nor are they its mission, and it cannot ensure an adequate level of responsibility or transparency. For this reason, it is also time to put into practice the repeated recommendations of UN and OAS human rights mechanisms. These mechanisms require limits to military jurisdiction so that military forces allegedly responsible for grave human rights violations are subject to independent and impartial investigation by the appropriate civilian authorities. They therefore reaffirm the fundamental right to justice for victims and prevent impunity.

Violence against women

¹ *Memorandum al Congreso de la Unión sobre las reformas de la Constitución y del sistema de justicia penal* (Memorandum to the Federal Congress on reforms to the Constitution and the criminal justice system), September 2004, AMR 41/031/2004

Discrimination and violence against women continue to be endemic in Mexico. The cases of Ciudad Juárez and Chihuahua during the last 12 years constitute the clearest example of why the profound deficiencies in the justice and security system, allied to discrimination and lack of dignity, are a breeding ground for gender-based violence. However, this type of violence and the fact that the authorities do not act with vigour in the name of the victims and their families, is not limited to the state of Chihuahua. There is an urgent need to implement practical policies that guarantee the right of all women in Mexico to live free from violence and discrimination. These objectives should be integrated into reform of the policing and security systems.

Human rights defenders

Human rights defenders play a fundamental role in highlighting violations committed by local authorities and representing the interests of victims in their fight for justice. Their intervention is vital when the state does not fulfil its role of protecting and ensuring rights and they often play an important role in strengthening the transparency and accountability of the authorities. For this very reason, they are often victims of defamatory campaigns, threats, harassment and fabricated criminal charges. Nevertheless, the number of human rights defenders disseminating information about human rights throughout Mexico and strengthening civil society has increased. The work of human rights defenders is fundamental for a healthy society and the progress already made should be consolidated and continued. This implies strengthening the network of state human rights commissions and ensuring they can conduct their legitimate role without fear of reprisals.

Impunity

Promises made about the future will be judged by a willingness to address past mistakes. Impunity exists for all crimes, it is greater still for human rights violations and the greatest of all for the human rights abuses committed in Mexico's "dirty war". The Special Prosecutor continues his work with limited and, for the moment, not very satisfactory results. Many different elements of the Mexican state, military and judiciary must intervene to dismantle impunity. There is no solid commitment to eliminating the judicial and institutional barriers that prevent those responsible from being brought to justice. This government, and the next, must guarantee justice, truth and reparations, once and for all.

Indigenous rights

Congress did not live up to the expectations of many indigenous peoples when it passed the Indigenous Law in 2001. This law generated deep frustration and dissatisfaction. For Mexico's indigenous peoples to enjoy the rights that flow from the obligations acquired by the country's adherence to international treaties, the executive and legislative powers must reform current legislation, and together with the state governments, ensure protection for the fundamental rights of indigenous communities.

Economic, social and cultural rights

It is important to understand that all aspects of public policy should be based on the principles of the indivisibility and interdependence of human rights. The denial of economic and social rights, and the existence of extreme poverty, are inextricably linked to abuses of civil and political rights, such as unequal access to justice. For them to be effective, the policies that address these issues should be

based on an integrated approach to human rights. The right to a dignified life and to not suffer fear are two aspects that are inseparable from human security.

Conclusions

These are some of the questions that Amnesty International thinks need to be addressed. Candidates for presidential office and the legislative assembly should commit themselves to following a programme of concrete action aimed at resolving these deep-rooted problems. An open dialogue with civil society organisations is also essential to establish how to achieve these objectives, and to consolidate the broad support that is needed to ensure success.

Amnesty International organised a public debate with the participation of representatives of the *Partido de Acción Nacional* (PAN), National Action Party, the *Partido de la Revolución Democrática* (PRD), Democratic Revolution Party, the *Partido Revolucionario Institucional* (PRI) Institutional Revolutionary Party and *Alternativa Democrática*, Democratic Alternative, before an audience of civil society representatives. The objective of the event was to highlight the responsibility of presidential candidates and representatives of the political parties to open a dialogue with civil society, with a view to formulating a comprehensive and concrete human rights programme. Amnesty International hopes that it was the first of many debates and calls on the presidential candidates to continue the debate with representatives of civil society about its proposals on human rights.

Human rights are independent of any political party. It is imperative that all political parties, across the whole political spectrum, commit themselves to a common agenda on human rights.

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Amnesty International