

MEXICO

At the request of the UN High Commissioner for Human Rights, in 2001 EAAF joined an advisory mission to the government of Mexico. The project brings together members of the Mexican Judiciary, NGOs, and medical professionals to improve the investigation of human rights cases. On a first trip to Mexico, one EAAF member, together with Portuguese legal medical expert Dr. Maria Cristina de Mendonça, coordinated the development of a protocol for forensic investigations and the use of physical evidence. A group of Mexican professionals and activists arrived at a consensus on this protocol, which was submitted to the Fox administration in May. On a second trip, two EAAF members gave the forensic section of a week-long training seminar based on the protocol. Finally, one EAAF member returned a third time to give a presentation on forensic science and to conduct a practice exhumation at a conference in Guadalajara. EAAF continues working in Mexico with the High Commissioner's Office in 2002.

HISTORICAL BACKGROUND

For many years, Mexican and international organizations denounced the systematic violation of human rights on the part of Mexican police bodies. Public concern for human rights increased markedly, however, in response to repressive actions taken by paramilitaries and the Army in Chiapas in the wake of the 1994 Zapatista uprising. Mexico signed various international treaties, and recognized the jurisdiction of the Inter American Human Rights Commission, in the 1990s. Still, the OAS, the UN, and other international organizations expressed profound concern regarding extrajudicial executions, the generalized use of torture, and impunity, as well as insufficient procedures for criminal and forensic investigations.¹

In 1999, the UN undertook two missions to Mexico to begin to address these irregularities. That July, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Asma Jahangir, visited Mexico. After meeting with officials in Mexico City, Jahangir - a

Supreme Court magistrate from Pakistan - traveled to the states of Guerrero, Chiapas, and Baja California to interview people about specific cases. In Guerrero, she inquired about the 1995 "Aguas Blancas" case, in which the Army allegedly killed seventeen peasants. In Chiapas, she spoke with survivors of the 1997 Acteal massacre, in which 45 indigenous farmers were killed, allegedly by a government-protected paramilitary group. Around this time, Jahangir received a communiqué from the Subcomandante Marcos of the *Ejército Zapatista de Liberación Nacional* (EZLN), challenging her to denounce paramilitary activity. This letter was published in the Mexico City daily *La Jornada*, which led to high-profile criticism of the UN's presence in the country.²

Nevertheless, in November 1999, at the invitation of the Zedillo administration, Mary Robinson, the UN High Commissioner on Human Rights, also visited Mexico. The visit was organized by Zedillo's Foreign Relations Minister, Rosario Green, under the rubric of the Intersecretarial Commission for Attention to Mexico's



Mexico. July 2001. EAAF trainees at a mock exhumation. Photo by EAAF.

International Commitments in Human Rights Matters. Robinson met with a wide array of officials and representatives of NGOs, who presented her with a document on the human rights situation in Mexico signed by over 100 organizations. Neither Robinson nor the EZLN attempted to arrange any meeting to discuss the situation in Chiapas, though opposition newspapers alleged that the government impeded her from visiting Acteal, where she had an invitation from a local religious group. The Commissioner did, however, meet with local and international observers from Chiapas and survivors of the Acteal massacre, as well as members of the Commission of Concord and Pacification (COCOPA), created by Congress in 1994 to negotiate with the EZLN. Robinson made a public statement acknowledging Mexico's attempts to address its problems, but was openly critical of insufficient procedures for investigating abuses and a culture of police and military impunity, citing "the failure in too many cases to punish human rights violators."³

The original goal of Robinson's 1999 trip was to sign a Technical Assistance agreement to aid the Mexican government in complying with international treaties. The UN offered a "package" of assistance, which would have entailed further field investigation by international experts. The Zedillo administration declined to sign at the time, and instead signed a Memorandum of Intentions, agreeing to collaborate with UN officials on federal human rights policy. The UN would work closely with the government-dependent National Commission for Human Rights (CNDH), which was created in 1990 to monitor, investigate, and report abuses, but which only became autonomous in 2000.

At the time of the visit, Mariclaire Acosta, longtime activist and President of the independent *Comisión Mexicana de Defensa y Promoción de los Derechos Humanos*, wrote an editorial expressing frustration with the Zedillo administration and hopes for the relationship with the UN:

“In the coming days we will begin to glimpse the outcome of the visit. Much will depend on whether civil society can effectively show the High Commissioner its viewpoint regarding the country’s needs in the cooperation with the UN, and whether the government can accept the participation of civic organizations proposing the more profound measures we need to confront an imminent crisis in Human Rights, produced by decades of negligence and denial. We have a historic opportunity to resolve it. We ought to take advantage of it with responsibility.” (*La Jornada*, November 24, 1999).

Political tensions around Human Rights issues increased during 2000. There were further angry reactions against the UN beginning February 2nd, when Jahangir published her report, *Civil and Political Rights, Including Questions of: Disappearances and Summary Executions*. The report linked police impunity and militarization to the electoral process.⁴ This generally pleased the Mexican Human Rights community, but it was openly rejected by members of the Zedillo administration, most notably Jorge Madrazo Cuellar, then Attorney General, who issued a press release condemning the report on February 21. The Mexican Delegation to the UN denounced Jahangir to the 56th Session of the Commission in Human Rights, stating that her report lacked balance and that she had gone beyond her mandate. As campaigning for the 2000 presidential elections intensified, little was done to follow up on the Memorandum of Intentions signed with Mary Robinson.

The seven-decade monopoly of Zedillo’s party - the Institutional Revolutionary Party (PRI) - ended in July 2000 with the victory of Vicente Fox, former chief of Coca-Cola in Latin America and candidate of the center-right National Action Party (PAN). Fox appointed several members of the Human Rights community to his administration, including Mariclaire Acosta, who became the first Subsecretary on Human Rights of the Foreign Ministry after serving as NGO advisor to Fox’s transition team. The first phase of the UN’s project with the CNDH, outlined in the Memorandum, finally began in earnest shortly after the election. In mid-July, UN staff gave a workshop for members of the *Procuraduría General de la República* (PGR), or Attorney General’s Office, on human rights investigations and legal norms.

Fox took office on December 1st, 2000, and on December 2nd signed the Technical Cooperation Program with the UN. The program would be implemented in two phases, and address five themes: National Human Rights Initiatives; Indigenous Rights; Administration of Justice; Economic, Social and Cultural Rights; and Vulnerable Groups, particularly children and migrant laborers. The first phase of implementation began in early 2001 and included the articulation and diffusion of basic mechanisms. EAAF’s participation in this first phase is described below. The second phase began in late 2001, and entails monitoring and evaluating the new programs.

After the signing, the UNHCHR named a Coordinator, Begoña Anton, to serve as liaison between the UN and the Mexican Government, specifically the Ministry of Foreign Affairs and Mariclaire Acosta. NGOs interested in participating in the joint activities were also to keep in touch with this liaison.

The response of Mexico’s Human Rights community to the Fox administration’s record has so far been ambivalent. Many were disappointed that he did not establish a Truth Commission for abuses committed prior to his election. Fox’s first year in office saw many disturbing events, including the tragic murder of Digna Ochoa, a prominent human rights lawyer, in October 2001. Director of the Miguel Agustín Pro Juárez Human Rights Center, Ochoa was killed after three years of threats and a kidnapping in 2000.⁵ Fox’s failure to protect her is widely cited as a source of pessimism.⁶

EAAF’s Participation

Within the framework of the Technical Cooperation Program, the UNHCHR asked EAAF to write a protocol for investigating deaths suspected of having been caused by Human Abuses. EAAF asked Dr. María Cristina de Mendonça, member of the National Legal-Medical Institute of Portugal, to help draft this protocol, a detailed practical guide for investigations involving human remains.

At the same time, the UN promoted a separate protocol for the medical and psychological investigations of torture. The Denmark-based International Council for Rehabilitation of Torture Victims (ICRT) came to coordinate this side of the Technical Cooperation Programme, and also worked with Mexican professionals and NGOs to develop guidelines. Both protocols synthesized internationally recognized standards accumulated and codified in UN documents, notably the 1999 Istanbul Protocol on the Effective Investigation of Torture and Other Cruel, Inhuman, and Degrading Treatment, and the so-called Minnesota Protocol on Autopsy and Skeletal Remains Analysis, adopted by the UN in 1991.

During 2001, EAAF members made three trips to Mexico. The first was made by Luis Fondebrider accompanied by Dr. Mendonça. The goal was to meet with local professionals, government officials, and particularly representatives of NGOs, to introduce the protocols as drafted, to hear opinions, and to come to a consensus about their contents. The final document, delivered to Mariclaire Acosta in May, was titled “A Model Protocol for the Forensic Investigation of Deaths Suspected of Having been Produced by Human Rights Violations.”

Between July 16 and 27, 2001, Fondebrider and Mendonça returned to Mexico, joined by EAAF member Silvana Turner, to participate in a one-week intensive training on the protocols under the auspices of the Foreign Secretary. Fondebrider and Turner gave a course on the uses of forensic anthropological methods in human rights investigations to a group of anthropologists and medical and legal professionals from different

sectors, many of whom had been involved in the May discussions. The ICRT contributed its own course on “Medical and Psychological Examination and the Documentation of Torture.” These courses, according to the UN’s original proposal, were meant to begin preparing those with medical and anthropological backgrounds not only as expert witnesses, but also as trainers who will disseminate techniques in different parts of the country. Addressing the general audience, ICRT representative Ole Vedel Rasmussen remarked that the gathering was “a historic event, since it is the first of its kind not only in Mexico but in the world.”⁷

An outgrowth of these events was an invitation from the governmental Human Rights Commission of Jalisco State to participate in a criminalistics conference. In November 2001, Luis Fondebrider traveled to Guadalajara, Jalisco, to lecture on forensic science, and direct a practice exhumation.

Both the forensic protocols and the torture detection protocols will be proposed as federal norms by the Fox administration, to be legally obligatory in all the states of the republic. The government officials in attendance as well as representatives of NGOs expressed the need to monitor implementation of the protocols. Accordingly, the EAAF has agreed to return to Mexico in 2002 to assist with Phase Two of the UN Programme, already in progress. Our work will consist of three projects: a seminar for lawyers, judges, and prosecutors; transformation of the protocols into a teaching manual; and assistance with overseeing how the protocols are put into practice in actual cases.



Mexico, July 2001. EAAF trainees at a mock exhumation. Photo by EAAF.

FOOTNOTES

1. A useful compilation by an importance advocacy group, “Recommendations and Observations Regarding Mexico Made by Various Intergovernmental Human Rights Mechanisms 1997-2000” is available at www.sjsocial.org/PRODH/intlrecs.pdf
2. July 1, 1999. Available at www.jornada.unam.mx
3. See Human Rights Watch Report “The Role of the International Community” available at www.hrw.org/wr2k1/americas/mexico.
4. UN Document E/CN.4/2000/3/Add.1 can be found at www.unhchr.ch
5. See “Mexican Human Rights Lawyer is Killed” by Ginger Thompson, *New York Times*, Oct 22, 2001.
6. See, for example, press release from the Center for Justice and International Law “Rights Lawyer’s Killing Major Test for Mexico’s New Government” October 26, 2001. Available at www.cejil.org/PRESS/digna
7. Press Communication, Mexico Foreign Ministry, July 16, 2001 www.sre.gob.mx/comunicados/dgcs/2001