

## ■ MEXICO

# After 60 years of the Universal Declaration of Human Rights



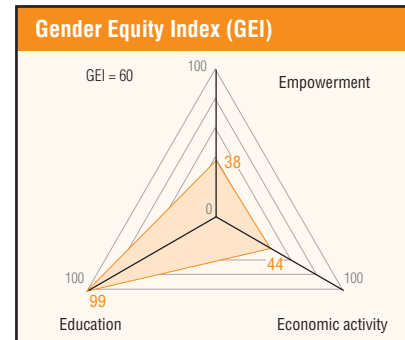
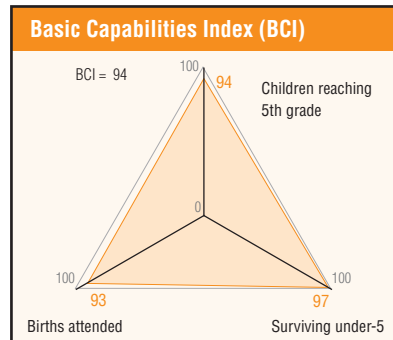
The country reaches the 60th anniversary of the UDHR with some points of light but many shadows. The economic model that the State refuses to review does not promote real development, but creates social injustice, environmental depredation and diverse violations to the civil, political, economic, social, cultural and environmental human rights of the population.

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As Mexico approaches the 60th anniversary of the Universal Declaration of Human Rights (UDHR), it has already ratified the major international and regional human rights instruments that support it and is open to visits by representatives of world and inter-American organizations and institutions that protect human rights. Mexico presided over the first year of work of the UN Human Rights Council<sup>3</sup> and supports the Office of the UN High Commissioner for Human Rights (OHCHR).<sup>4</sup> Likewise the National Development Plan 2007-2012 declares that the State will “guarantee unrestricted respect for human rights and struggle for their promotion and defence.”<sup>5</sup>

### Pending agenda

Notwithstanding the above, the country also has a long list of tasks to accomplish in fulfilling its commitments. Multiple and systematic violations of civil, political, economic, social, cultural and environmental rights have been committed with impunity despite documentation and denunciation by national and international organizations. In addition, many recommendations made by the UN human rights treaty bodies, as well as by UN Special Rapporteurs



to the Mexican State in recent years, have yet to be thoroughly implemented.

Mexico is well behind in its recognition of human rights at the constitutional level. Although the 1917 Constitution was a pioneer in its recognition of some social rights, it has not been amended to reflect current international human rights standards. Despite “more than 70 changes in Title 1, Chapter I, entitled ‘Individual Guarantees’ (modifications that have added new rights or have attempted to update some of the rights already incorporated), it has not been possible to reform the chapter in its totality. The manner in which the Constitution covers human rights reflects structural deficiencies that make it impossible to exercise these rights fully and effectively. To cite only a few of these deficiencies, some are related to the very concept of individual guarantees; others to the lack of structure and coherence in Chapter I; to the lack of a gender perspective; to weak incorporation of international treaties on the subject; and to limitations that undermine guarantees and mechanisms for the protection of rights.”<sup>6</sup>

Violations of human rights coupled with the impunity of perpetrators have cast a shadow on this commemorative year. A range of civil society organizations and networks described the situation in a joint document submitted to the UN High Commissioner for Human Rights, Louise Arbour, when she visited Mexico in February 2008. The main concerns raised in it were criminalization of social protest; un-

constitutional initiatives relating to criminal law; conditions of political prisoners; forced disappearance and torture; harassment and assaults on defenders of human rights, including journalists and organizations; the situation of migrants and refugees; and conditions of women and children. Another concern has been poor supervision and regulation of non-state actors such as private national and transnational corporations guilty of activities that violate human rights, especially economic, social, cultural and environmental rights, and even State complicity in these violations.

### The economic model and human rights violations

In this section we will look at some of the situations that reveal the negative impact of the economic model of liberalization of trade and investment on human rights and development, and illustrate ways in which the Mexican State has failed to meet its commitments, particularly the obligation to protect human rights by preventing third parties from interfering with their enjoyment.

The State does not protect the labour rights of workers at large international service corporations. As described in Report 2007 of the Centro de Reflexión y Acción Laboral (CEREAL), “these types of companies commit very serious violations of worker dignity: they subject workers to job instability; pay insufficient wages and offer very limited benefits, very often below legal requirements; and create labour relationships based on designations not covered by legislation (interns, associates, etc.) that make it difficult for employees to win respect for their human rights as workers; and by preventing them from exercising their freedom of association in unions and right to collective bargaining. This is the sector

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2 Reference group in México for Social Watch and other international networks, founded in 1998 and currently made up by: DECA Equipo Pueblo, Casa y Ciudad de Coalición Hábitat México, Cátedra UNESCO de Derechos Humanos de la Universidad Nacional Autónoma de México, Centro de Estudios Sociales y Culturales Antonio de Montesinos, Centro de Derechos Humanos Miguel Agustín Pro Juárez, Centro de Reflexión y Acción Laboral de Fomento Cultural y Educativo, Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, Defensoría del Derecho a la Salud, FIAN Sección México, Instituto Mexicano para el Desarrollo Comunitario, Liga Mexicana de Defensa de Derechos Humanos, Oficina Regional para América Latina y el Caribe de la Coalición Internacional del Hábitat, RADAR-colectivo de estudios alternativos en derecho.

3 México presided over the UN Human Rights Council from 19 June 2006 to 18 June 2007.

4 Established in Mexico in 2002, it will operate in the country until 2012.

5 Look up PND 2007-2012 at: <pnd.presidencia.gob.mx/>.

6 Proposal for a constitutional reform in matters of human rights produced by civil society organizations and academics specializing in human rights, Mexico, February 2008. This document was promoted by the OHCHR in Mexico in 2007 with the purpose of presenting before the Congress of the Union this strategic proposal, which our organization also subscribed to. Full document available at: <www.ohchr.mx>.

in which most workers are subject to 'owner protection contracts'.<sup>7</sup>

Furthermore, the State fails to check compliance with hygiene and security standards in private company workplaces. The absence of regular inspections by the State and non-compliance by the companies can lead to a tragic loss of life among workers, such as the 65 miners who died in February 2006 in the (preventable) explosion at Pasta de Conchos Mine 8, property of Grupo Industrial Minera México (IMMSA), the largest mining company in the country.<sup>8</sup> For more than two years, complicity between State officials and the company has hindered the search for bodies, the main demand made by families of the deceased miners.<sup>9</sup>

In many of Mexico's states, construction of infrastructure megaprojects and large shopping, tourist or housing projects is proceeding with no concern for the social and environmental impact on the part of either the investors or the State. Communities that organize protests against these megaprojects suffer harassment, arbitrary arrest, repression and even media campaigns that criminalize social protest. A clear example of this is the struggle of the Peoples' Council in Defence of Water, the Earth and the Air in the state of Morelos. For the past three years it has campaigned for cancellation of the megahousing project *La Ciénaga*, backed by private company Urbasol, charging that it will severely limit the availability, accessibility and quality of water in dozens of communities in the area. Like other megaprojects, it was approved without consideration of its total environmental impact.

The most glaring example of the social and environmental irresponsibility of allowing unfettered access to the external market can be seen in the consequences of the North American Free Trade Agreement (NAFTA), in force for 14 years, because of which the Mexican State has been observed by the UN Committee on Economic, Social and Cultural Rights.<sup>10</sup> The negative impacts are many, and the

inevitability of the Treaty was only an excuse. The State seems to have forgotten that human rights take precedence over treaties of whatever type, including financial or commercial agreements.<sup>11</sup>

Among all the negative consequences of NAFTA, the impact on the agricultural sector deserves special attention. Since 1 January 2008 products of extreme importance to Mexicans like corn, beans, sugar cane and milk have been imported with no tariff or other restriction. During January 2008, "imports of white corn from the United States jumped by 384% compared to the same month in 2007, while imports of yellow corn for fodder, starches, fructose and snacks, grew by 1,000% during the same period."<sup>12</sup> This will increase Mexico's agricultural product trade deficit, which was already growing steadily in the NAFTA years: "from 1980 to 1994 exports of agricultural products grew more than 200%, while imports went up only 28%. Over the next 14 years the opposite happened. Exports only grew by 50% and imports jumped by 176%."<sup>13</sup> The agricultural crisis has deepened; rural and urban poverty have grown, as has migration to the North. Food security has disappeared. According to the National Campaign for Food Security and Restoration of the Mexican Countryside, "Without corn there is no country, nor is there a country without beans." In addition to the trade deficit, negative consequences include lack of control over the agro-industrial monopolies, the proposal to sow genetically modified corn in Mexico, and demand in the United States for corn to produce ethanol, "all of which threatens the quality, quantity and price of corn... and of all foodstuffs that depend on corn."<sup>14</sup>

Were this not enough, the State, encourages policies and legislation that contravene both international human rights declarations and environmental rights, while favouring the interests of the transnational food, biotechnology and energy industries. An example of this is the Law on Biosafety of Genetically Modified Organisms (GMOs), which came into force in May 2005. Also known as the *Monsanto Law*, "it does not create a security framework for biological diversity or food security for crops and plants of which Mexico is the original source or centre of diversity, and these crops remain essential to the subsistence of the peasant and indigenous cultures that nurtured them; however it does provide security to the five transnational corporations that control GMOs worldwide, 90% of them owned by

Monsanto alone."<sup>15</sup> The regulations to implement this law, which went into effect in March 2008, reduce red tape so that transnational corporations can sell Mexico transgenic seeds and leave it up to the corporations themselves to "present, document and study the risks and environmental impact to health, biological diversity, including the evaluation, monitoring and control of the risks that their transgenic crops will create."

The Law on the Production, Certification and Trading of Seeds, in effect since August 2007, "is the ideal complement to the biosecurity law (*Monsanto Law*), because it gives the seed corporations the assurance that they will be able to prosecute any farmer whom they determine has been using their products without paying for them."<sup>16</sup>

Finally, the Law for the Promotion and Development of Bioenergy, which came into force in February 2008, opens up an investment opportunity long sought by the transnational corporations involved in energy and other industries. These "large agro-industrial, oil, automobile and biotechnology corporations have created alliances and links to facilitate participation in this activity."<sup>17</sup> This legislation on transgenics and agrofuels will have a severe impact on human rights, especially on the rights to health, food and water.<sup>18</sup> If the Government is to honour its presumed priorities in matters of human rights and complementary legislation,<sup>19</sup> revision is urgent and necessary.

The list of violations to the rights enshrined in the UDHR and other instruments ratified by Mexico is very long. In this report, we have mentioned only some of them, basically those related to the economic model. The country reaches the 60th anniversary of the UDHR with some lights but with many shadows, with a State that does not show true willingness to comply with its obligations regarding the Declaration and the treaties it has signed and ratified. For Mexicans, the ideal of a life free of fear and want found in the Universal Declaration is far from becoming a reality. ■

7 Centro de Reflexión y Acción Laboral (CEREAL) de Fomento Cultural y Educativo, A.C. "XI Informe de Violaciones a los Derechos Humanos Laborales durante 2007. La mano dura de Calderón. Tres reformas, arrebatar el poder a los trabajadores". Mexico, D.F., March 2008, p. 45.

8 IMMSA is valued at more than USD 9 billion, "a sum equal to seven times the budget of public education for the whole country for 2006, to 15% of the GDP and 150 times the expense in Federal Public Security", quoted in: "Mina 8, Unidad Pasta de Conchos: Múltiples violaciones a los derechos humanos laborales", by Cristina Auerbach Benavides and Carlos G. Rodríguez Rivera, members of CEREAL. Mimeo, January 2008.

9 "Both the company and the Ministry of Labour and Social Welfare have mentioned a presumed danger... In spite of the conditions in which our relatives worked, danger in the mine was never an obstacle when it came to the extraction of carbon and obtaining profit from it. For which reason, and having established the necessary precautions... there is no reason for us to be denied the internationally recognized right that we have of families, of recovering our families." Press bulletin issued by the social organization Familia Pasta de Conchos. Mexico City, 19 January 2008.

10 See the concluding observations of the CESCR to Mexico in 1993 (E/C.12/1993/16) and 1999 (E/C.12/1/Add.41), as well as the summary record of the CESCR 13th meeting (36th session) in 2006 (E/C.12/2006/SR.13).

11 Article 103 of the UN Charter (1945) establishes: "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail." Among those obligations, the fulfilment of human rights occupies a central place.

12 Imagen Agropecuaria, <www.imagenagropecuaria.com> quoted by Blanca Rubio. "Decisiones de Gobierno, de espaldas a las tendencias mundiales", in: *La Jornada del Campo*, No. 7, 8 April 2008.

13 Roberto Garduño. "Desastrosos efectos del TLCAN en el agro, concluye estudio en la Cámara." *La Jornada*, 3 February 2008.

14 Further information at: <www.sinmaiznohaypais.org>.

15 Silvia Ribeiro. "Ley Monsanto: parece mala pero es peor". *La Jornada*, 22 January 2005.

16 Silvia Ribeiro. "Nueva ley de semillas contra los campesinos." *La Jornada*, 24 August 2007.

17 Michelle Chauvet and Rosa Luz González. "Biocombustibles y cultivos biofarmacéuticos: ¿oportunidades o amenazas?". *El Cotidiano*, No. 147, January-February 2008, year 23, Universidad Autónoma Metropolitana.

18 On several occasions the Special Rapporteur on the right to food, Jean Ziegler, has expressed his reservations regarding GMOs, invoking the precautionary principle in the face of the risk of affecting the right to food and to health. Also, he has emphasized the negative implications of agrofuels on the right to food and the right to water. See for example, his report to the UN General Assembly in August 2007 (A/62/289), available at: <www.ohchr.org>.

19 One of the current government's priorities in international politics is "to make compatible the internal legal resolutions, whether at federal or state level, with the international treaties that Mexico is party to." See: <www.sre.gob.mx/derechoshumanos>.