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FILE DESIGNATION

HANDLING INDICATOR

DEPARTMENT OF STATE *10/24/97*
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TO : Department of State

INFO: ALL CONSULATES IN MEXICO (POUCH)

E.O. 11652: N/A
TAGS: MX PINT SHUM

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FROM : American Embassy MEXICO

DATE: 16 February 1975

SUBJECT : HUMAN RIGHTS IN MEXICO

- REFS : A) STATE 12320
 B) MEXICO 3309 April 19, 1974
 C) MEXICO A-36 February 9, 1975
 D) MEXICO 772N (Jan 24, 1975)
 E) MEXICO 140D (Jan 7, 1975)
 F) MEXICO 10143 (para 7) (Dec 3, 1974)

Given Mexico's system of one party rule, the executive branch of the Government of Mexico since circa 1930 has had a certain flexibility in the degree to which it adheres to constitutional exigencies protecting human rights. As a result, we would not place Mexico in the category of "countries which are relatively exemplary in their concern for human rights" without some qualification. Neither, however, does Mexico fall into that group of nations where "the possibility emerges of a pattern of human rights violations."

Several constitutional guarantees and other circumstances provide a considerable measure of security to the individual Mexican citizen and to Mexican citizens acting collectively. The Mexican Constitution (Chapter I) of 1917 grants express protection to the exercise of the various freedoms detailed in paragraph 4 of reference A. The Constitution does distinguish between the rights of Mexican citizens and foreigners. In some instances, such as employment (Article 32) and due process (in the specific case of a foreigner's right to remain in Mexico - Article 33).

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In Out

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To enable the individual citizen to safeguard himself against violation of these guarantees, Mexican legal practice provides the writ of amparo, a uniquely Mexican (as it has developed here) protection provided the individual Mexican citizen against "coercive and abusive acts of (governmental) authorities". For a brief, scholarly description of the amparo, the Department may wish to consult A Revised Guide to the Law and Legal Literature of Mexico, by Helen J. Clagett and David M. Valderrama, Library of Congress (Washington, 1973), especially pages 38-61 on "Writ of Amparo, Judicial Review, and Protection of Individual Rights".

A second factor (exercised in conjunction with the amparo) is the limited practice of jurisprudencia of the Mexican judiciary. "Jurisprudence, the closest definition to common law binding precedent, can be established by a line of five successive amparo decisions of the Supreme Court..."*

Finally, there exists, as a result of the Mexican revolution of 1910-1920, a set of internalized political attitudes and beliefs widely and commonly held by Mexicans regarding the way in which government should behave. Public opinion thus exercises a brake on excesses of authority in the broad sense, though it may not prevent violations of human rights in specific or isolated cases. It should also be noted that GOM leaders share those attitudes and for the most part genuinely attempt to give life to the revolutionary inheritance emphasizing "social justice" and various kinds of individual and collective freedoms. Mexico's forty-five years of political stability is in part due to the fact that the Mexican Government has not engaged in practices which amount to a pattern of human rights violations.

Reference B, while prepared in response to a more narrow requirement, is therefore a still accurate description of the kind of violations of human rights and the circumstances under which they might occur in Mexico. Reference C supplements the earlier report in the area of GOM efforts to combat terrorist violence, an area accounting for a considerable portion of the violations which do occur.

*Clagett and Valderrama, pg. 48.

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References D-F are recent spot reports which inter alia treat GOM violations (or possible violations in the instance of Ref F) of human rights of groups or individuals exclusive of those allegedly engaged in terrorist activity. None of these instances of orther (uncited) specific incidents which have occurred since Reference B was drafted would lead us to alter the judgment expressed in that report. However, it should be noted (regarding the "deprivation of right to participate in Government") that the coalition of interests (including some groups not represented in the ruling party, the PRI) which has governed Mexico since 1930 is unlikely to recognize electoral victories of opposition parties in any election more important than federal deputy contests. It is widely believed that the PRI resorted to frauds in two gubernatorial elections to deny the major opposition party electoral victories in 1968 and 1969.

On the positive side, we would cite two developments during the past year which will enhance Mexican observance of human rights. In late 1974 Mexico amended its federal constitution to provide that "men and women are equal before the law." Second, in 1974 the GOM passed legislation significantly enlarging the capacity of its courts to try penal cases. This will remove a physical and a primary cause of one area of human rights violations - prolonged incarceration without trial.

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