

The Thwarted Inevitability Advances in Human Rights Defense In Mexico City

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Today, mass repression like that of 1968 seems improbable in Mexico.

In the last 10 years of the last millennium we witnessed substantial advances in matters of human rights in Mexico, basically in two aspects: individual freedoms and the fight against impunity of those in power. Other matters like the fight against poverty and social inequality, public security and the administration of justice, to mention just a few, did not progress and even retrogressed; but fundamental human rights have been consolidating and are more and more effectively in force. It is true that respect

for human rights does not mean the elimination of all injustices (although they must combat them), disease, gridlock traffic, depression, indigestion, disappointment in love or death; that is, it cannot guarantee the Kingdom of God on Earth. But human rights are the instrument of the governed for defending themselves from the arbitrariness of those who govern.

Human rights do not mean the realization of a utopia or of the absolute, nor do they guarantee happiness: they are a formula for being able to live together in a civilized manner. They are not won once and for all, but then no human achievement is irreversible. They are fragile and constantly threatened —by enemies who are always morally inferior

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but who are often powerful. This makes them all the more desirable and precious. They must be defended day by day. They are one of the most precious products of civilization and we —those who think of ourselves as civilized— are to a great extent the product of their being in force. We are certain that, like in the hell of Erinys, the abuse of power is ethically unacceptable for human beings. Although some lie, bloody and kill for power, I am willing to venture the judgment that no one —not even they— can yearn in the depths of their beings for the violation of human rights to prevail because that would mean that we would all be at the mercy of the abuse

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of power. For that reason the victories against these violations —like those of Hercules against the metal buzzards and the dragon, just as monstrous as abuses of power— make us joyful and calm us.

Human rights are based on what Voltaire called “love of the human race, a virtue unknown to those who deceive, to the pedants who dispute and the fanatics who pursue.” In Mexico, the guardians of orthodoxy by temperament or habit, those nostalgic for authoritarianism or for the privileges of arbitrariness, or the supporters of a paralyzed legal system have not been persuaded to their cause, as they could not be. By contrast, the most sensitive, active and influential part of society has been convinced by it and that has been sufficient to change society itself.

CONTEMPORARIES OF ALL MEN

In our country, we have only recently made the old dream of effective suffrage a reality (a banner raised by Francisco I. Madero in 1910 when he called on the Mexican people to take up arms against the 30-year dictatorship of Porfirio Díaz). This is the first condition of a democratic system. Today freedom of expression and the right to assembly, only a few years ago severely constrained, are broadly respected. Today we can say, with poet Octavio Paz, that “we are for the first time the contemporaries of all men.” Today it seems improbable that hundreds of people assembled in peaceful protest

could be murdered *en masse* with impunity under orders from the president like on October 2, 1968. For the president, as Carlos Fuentes would write, the demonstrators were “trouble-makers, subversives, communists, ideologues of destruction, enemies of the homeland embodied in the presidential colors” because they dared protest.

Fernando Savater reminds us that human rights “do not emanate as much from promises of the light as from dread of the shadows; they do not aspire to an extraordinary imagined good, but to avoid familiar evils.” International bodies’ reports often denounce serious human rights violations in Mexico with reference to only three states (Chiapas, Guerrero and Oaxaca), which are not representative of what is happening in the rest of the country and

where absolute impunity no longer prevails as in the past. We cannot forget that our tradition of unassailable authoritarianism, which included such grave crimes as forced disappearance, was long, powerful and seamless.

The panorama varies from one state to another nationwide. The most significant steps forward have been taken in Mexico City. Some examples are illustrative. In the capital, such discriminatory practices as the following have been eliminated: a) the requirement that women applying for jobs in the public sector be required to do pregnancy tests; b) a worker having to prove he/she does not have AIDS to be hired for a job which involves no risk of contagion; and c) the refusal of public hospitals to treat indigents. The National Pawn Shop considerably lowered its interest rates, thus recovering the original spirit of aid to the most needy for which it was founded by the Count of Regla.¹ Also, the first shelter for women victims of domestic violence has been opened.

AN ILLUSORY AIM?

The fight against torture was considered an illusory aim only eight years ago. At that time, this undisputed king of all the different kinds of abuses of power was an everyday practice in all police stations and prisons. It was encouraged by legislation and Supreme Court decisions that made prisoners’ confessions admissible in evidence even when they had been extracted without the presence of a lawyer or another person of the prisoner’s confidence. Today, with laws that do not accept the validity of confessions made under these conditions and with the ombuds-

man's surveillance of prisoners, torture is sporadic and, for the first time in Mexico, despite the intricate web of cover-ups in officialdom, presumed torturers have been tried and convicted, although still in limited numbers. Only eight years ago these achievement seemed impossible to the disenfranchised and the apathetic. Many were convinced that this "cruelty made legitimate by its use in the majority of nations," as the Italian criminalist Beccaria would call it, was as inevitable as the rising of the sun. But where the impossible ends, there is nothing left but the relentless, which turns individuals into stone icons on the stage where our lives take place. Yesterday and today, the possible strides forward against the inevitable when felicitous circumstances show the way.

Why, then, do we have *gatopardismo*² such as in the words of the nineteenth-century Spanish poet Gustavo Adolfo Bécquer, "Everything today is like yesterday, tomorrow like today, and always the same"? Among many other very different reasons, I will name three: a) the human tendency to magnify the evils of today; b) the belief that if we recognize victories we may become complacent and lower our guard; and c) a problem of taste similar to that of those who could not distinguish an excellent wine from vinegar. But, the recognition of real victories, besides being an acknowledgment of fact, does not have to translate into a drag on the fighting spirit. On the contrary, it can serve to encourage us in the struggle because it makes us see that many battles that seemed impossible can be won if we act with firmness, tenacity, conviction, timeliness, appropriate measures... and a little help from the winds of chance.

THE OMBUDSMAN'S TASK

To continue advancing, the federal or state ombudsman must carry out his/her duty with scrupulous professionalism and autonomy. This is only possible if he/she is named taking into consideration solely the protection of human rights and not any kind of partisan considerations. An official with insufficient professional stature or who wishes to be accommodating to the administration will not be an authentic ombudsman.

The struggles and achievements of this public defender of human rights unleashes enthusiastic adherents and ferocious diatribes. Since the institution was born in the eighteenth century, the

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causes he/she defends have never convinced everyone, nor, by their very nature, will they ever. His/her banner irritates authoritarian, pre-Enlightenment minds, makes those in favor of paralyzing the legal system uncomfortable, unmasks unscrupulous lawyers who charge enormous sums for getting good results and shows the true face of those who proclaim themselves progressives, revolutionaries or leftists when they condemn the lapses of authorities with whom they do not agree ideologically but close their eyes to the injustices of authorities of their own political stripe.

The latter, the blind who do not wish to see, attempt to justify their selective silence with the curious excuse that denouncing the arbitrary actions of a government they consider progressive works in favor of reaction or the dark forces, whose identity they do

not bother to clarify. Inevitably, their excuse reminds us of the military and intellectuals who, using that same pretext, were silent yesterday or justified the human rights violations by the regimes of Central Europe or are today complaisant in the face of violations by governments that call themselves leftist or anti-imperialist. For an authentic ombudsman, the enemy is always the abuse of power, no matter where it emanates from.

Disturbed by the activity of the Mexico City Human Rights Commission, Deputy Gilberto Ensástiga of the Party of the Democratic Revolution, which governs Mexico City, proposed changing the law so that the commission

could not intervene in certain affairs so as not to become politicized or not confront those in power. An ombudsman who did not oppose, as did the Mexico City Human Rights Commission, individuals with criminal records having posts high up in ministries or the police; who did not fight, as the commission did, trumped-up criminal charges; who did not point to, as did the commission, documented cases of corruption; or who acted in such a way as to not ever make those in power uncomfortable, would not be an authentic ombudsman. **MM**

NOTES

¹ The National Pawn Shop is just that: it loans money in exchange for items, at lower rates and with longer pay-back schedules than commercial pawn shops. [Editor's Note.]

² An expression which means "Everything changes so that everything may stay the same." [Translator's Note.]